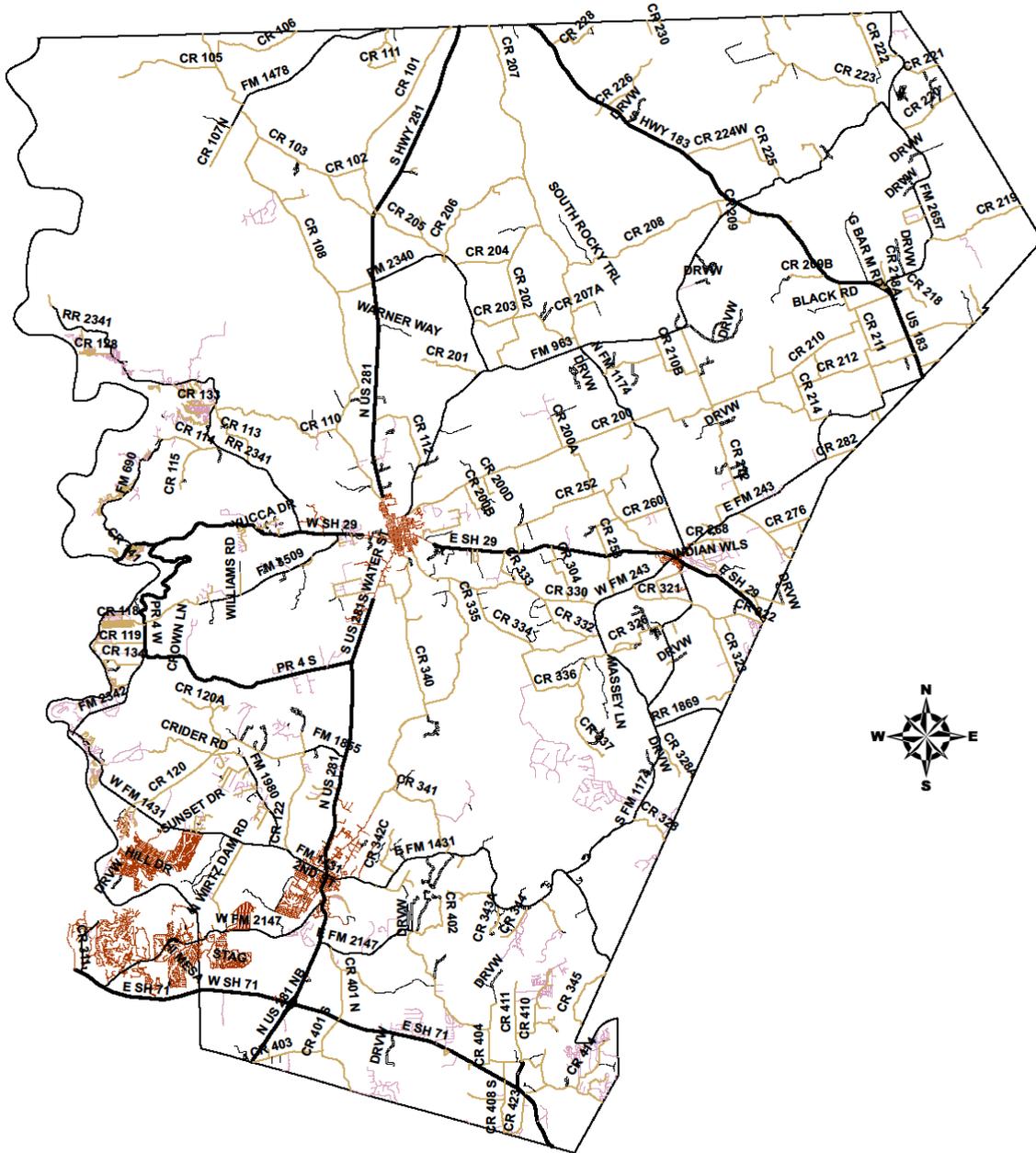


**BURNET COUNTY**  
**SUBDIVISION REGULATIONS**

# Burnet County Map



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January 11, 2011

**THE BURNET COUNTY SUBDIVISION REGULATIONS WERE ORIGINALLY ADOPTED BY THE BURNET COUNTY COMMISSIONERS COURT ON JANUARY 11, 2011 UTILIZING CHAPTER 232 OF THE TEXAS LOCAL GOVERNMENT CODE, SUBCHAPTERS A AND E. THEY HAVE BEEN AMENDED ON MARCH 12, 2019 TO REFLECT PROCEDURAL CHANGES, ADDRESS FLAG LOTS AND INCORPORATE APPENDIX G RELATING TO GROUNDWATER AVAILABILITY IN PLATTED SUBDIVISIONS.**



THE COUNTY OF BURNET  
Burnet, Texas 78611

**ORDER ADOPTING CHAPTER 232, SUBCHAPTER E, TEXAS LOCAL GOVERNMENT  
CODE FOR THE UNINCORPORATED AREA OF BURNET COUNTY**

**WHEREAS**, the Burnet County Commissioners Court and the citizens of Burnet County desire to promote the health, safety, morals and general welfare for the unincorporated area of the county, and;

**WHEREAS**, the Burnet County Commissioners Court and the citizens of Burnet County desire the safe, orderly and healthful development of the unincorporated area of the county, then;

**BEIT HEREBY ORDERED**, by majority vote of the Burnet County Commissioners Court, that Chapter 232, Subchapter E of the Texas Local Government Code be utilized by Burnet County to promote the health, safety, morals and general welfare of the county and the safe, orderly and healthful development of the unincorporated area of the county. So be it ordered this 11th day of January, 2011.

  
Donna Klaeger, Burnet County Judge

Attest:   
Janet Parker, Burnet County Clerk



TABLE OF CONTENTS

ARTICLE 1. INTRODUCTION

Preamble and Purpose ..... 4

General Provisions ..... 5

Short Title ..... 5

Jurisdiction ..... 5

Interpretation and Purposes ..... 5

Applicability ..... 5

Acceptance of Dedication ..... 5

Definitions ..... 5

Enforcement ..... 6

Special Provisions ..... 6

Legal Provisions ..... 6

Conflicting Orders ..... 6

Severability Clause ..... 6

Guarantee of Performance..... 6

Acceptance by Commissioners Court of Subdivision Streets built prior to April 24, 2000 for County maintenance and Public Subdivision streets subsequent to the date of this Order ..... 6-7

Exceptions to Plat Requirement ..... 7-8

Chapter 245 Determinations ..... 9

Expiration of Existing Permits ..... 9

Expiration of Existing Projects ..... 9

Application for Establishment of Chapter 245 Rights ..... 9

ARTICLE 2. General Subdivision Requirements ..... 10

General Requirements ..... 10

Filing Deadlines and Hearings ..... 10

Subdivision Approval Process ..... 11

Transmittal Materials ..... 11

Application Materials ..... 11

Preliminary Plat ..... 11

Recorded Plat ..... 11

Application Review Periods ..... 11

Fees ..... 12

Subdivisions within the ETJ of a Municipality ..... 12

Wastewater and Development Permits..... 12

Privately Maintained Roads ..... 12

Preliminary Plat ..... 12

Shall submit a preliminary plat to Commissioners Court ..... 13

Licensed engineer or licensed land surveyor ..... 13

Preliminary Plat required information ..... 13-16

Designation of subdivision as public or private ..... 16

Flood Plain and Drainage Information ..... 16

Water, Wastewater and Utilities Information ..... 16

Proof of Ownership ..... 16

County Liability .....	16
Final and Record Plat .....	17
Approval by Commissioners Court .....	17
Requirements .....	17
Revision of Subdivision Plats (REPLATS) .....	17
Requirements .....	17
Application .....	18
Notice .....	18
Hearing .....	18
Filing .....	18
CANCELLATION OF SUBDIVISIONS .....	18
ALL PLATTED SUBDIVISIONS .....	18
ARTICLE 3. DESIGN STANDARDS AND REQUIREMENTS .....	19
General Design Principles and Objectives .....	19
Conformity with the General Plan .....	19
Standards for Site Improvements .....	20
Construction and Specifications of Roads and Drainage .....	20
General .....	20
Base Material .....	20
Subgrade and Base .....	20
Width of Right-of-Ways .....	20
Width of County Road .....	21
Drainage, Minimum Grades, Retards, Headwalls, etc .....	21
Surface Treatment .....	21
Requirements for Roads and Streets .....	22
Lots and acreage tracts in Subdivision .....	23
General Layout .....	23
Residential Lot Sizing .....	23
General considerations .....	23
Platted subdivisions served by a public water supply .....	23
Platted subdivisions served by individual water systems .....	24
Approval of existing small lots or tracts .....	24
Compliance with On-Site Sewage Facility Regulations .....	24
Manufactured housing communities or multi-use residential developments served by a central sewage collection system for on-site disposal .....	24
Exemptions and variances Relating to On-Site Sewage Facilities .....	24
Additional Requirements .....	25
Compliance .....	25
Plans .....	25
Inspection of Improvements .....	25
As-Built Plans .....	25
Street Improvements .....	25
Water Systems .....	25
General .....	25
Water Wells and Water Quality .....	25
County Liability .....	25
Flood Plain and Drainage .....	25
Changes to Road Names .....	25
Obstacles to Subdividing .....	26

ARTICLE 4. OTHER PROVISIONS .....	26
Subdivision Completion and Maintenance Bonds .....	26
Subdivision Completion Bonds .....	26
Maintenance Bond .....	26
Cash Bond .....	27
Final Inspection .....	27
Penalty for Violation .....	27
Variance .....	28
Appendix A. Definitions	
Appendix B. Summary of Road Standards	
Appendix C. Development Fee Schedule	
Appendix D. Flood Damage Prevention Order	
Appendix E. On-site Sewage Facility Order	
Appendix F. Manufactured Home Rental Community Regulations	
Appendix G. Groundwater Availability Requirements	

## BURNET COUNTY SUBDIVISION AND DEVELOPMENT REGULATIONS

### ARTICLE 1. INTRODUCTION

#### 1. Preamble and Purpose

- A. These Subdivision and Development Regulations have been adopted by Order of Burnet County Commissioners Court to provide a framework for the orderly and efficient development of rural and suburban Burnet County.
- B. These Subdivision Regulations have been adopted based on the following findings:
  - 1. The Commissioners Court of Burnet County has the authority to regulate the subdivision process pursuant to Local Government Code § 232.001 et. seq.;
  - 2. The Commissioners Court of Burnet County has been designated by the Texas Commission on Environmental Quality as the authorized agent for the licensing and regulation of on-site sewerage facilities within Burnet County and these Regulations are a necessary component of such regulation;
  - 3. The Commissioners Court of Burnet County has the authority and obligation to exercise general control over the roads, highways, bridges and related drainage structures and development within Burnet County;
  - 4. The Commissioners Court of Burnet County has been granted the authority and responsibility under the Federal Emergency Management Act to administer floodplain development regulations within the County and to regulate associated development;
  - 5. The Commissioners Court of Burnet County has considered the potential pollution, nuisances and injury to public health that could be caused by the use of private sewerage facilities within the County and has adopted these Regulations to abate or prevent the potential pollution, nuisances or injury to public health;
  - 6. The Commissioners Court of Burnet County has the authority and obligation to protect the public health, safety and welfare of the citizens of Burnet County;
  - 7. These Regulations are enacted to implement the powers conveyed to counties under the laws of the State of Texas, including but not limited to:
    - Tex. Transportation Code Ann., Chapter 251 (general control over all roads, highways and bridges);
    - Tex. Health and Safety Code Ann., Chapter 364 (County solid waste disposal systems);
    - Tex. Utilities Code Ann., Sections 181.021-.026 (regulation of gas utility lines within county right-of-way);
    - Tex. Health and Safety Code Ann., Chapter 366 (authority to adopt standards for on-site sewerage facilities);
    - Tex. Health and Safety Code Ann., Chapter 365 (regulation of public highways for litter control), Tex. Local Gov't Code Ann. Chapter 232 (Authority to adopt and enforce subdivision regulations and require plat approval), Tex. Local Gov't Code Ann. Section 242.001 (authority to regulate subdivisions pursuant to all statutes applicable to counties within the extraterritorial jurisdiction of municipalities), Tex. Health and Safety Code Sections 121.003 and 122.001 (authority to enforce laws and appropriate funds necessary to protect public health), Tex. Water Code Ann. Section 16.311, et seq. (authority to set standards for construction within floodplain and to guide development of future development to minimize damage caused by floods), Tex. Water Code Ann. Chapter 54 (municipal utility districts), Tex. Water Code Chapter 26 (Water Quality Control), and Tex. Water Code Sections 26.171 and 26.175 (regulation of water quality by counties);
  - 8. The Commissioners Court has considered the potential burden on landowners and taxpayers of substandard development or poor quality road construction;

9. These Regulations are enacted to preserve, protect and promote the health, safety, morals or general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county.
- C. The Commissioners Court of Burnet County, following public notice, investigation and hearing, has declared and hereby declares these Regulations to be necessary and appropriate to accomplish the purposes and goals enumerated above.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF BURNET TEXAS, AS FOLLOWS:

2. **General Provisions**

- A. **Short Title.** This order and subsequent amendments shall be known as the "Subdivision Regulations" of Burnet County, Texas.
  - B. **Jurisdiction.** No person shall create a subdivision in Burnet County outside of the corporate limits of any municipality without complying with the provisions of this Order. If the County and a municipality enter into a written agreement under Section 242.001 of the Local Government Code which authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction, then the land in the municipality's extraterritorial jurisdiction is not considered to be within the jurisdiction of the County. All plats and subdivisions of any such land within the County's jurisdiction shall conform to the rules and regulations herein set forth.
  - C. **Interpretation and Purposes.** In their interpretation and application, the provisions of this Order shall be deemed to be the minimum requirements, and whenever the principles, standards or requirements of other orders of Burnet County, the more restrictive order shall control.
  - D. **Applicability. Platting Requirements** apply when the tract of land being divided meets the definition of a subdivision as defined by these rules.
  - E. **Acceptance of Dedications.** Approval of a plat by the Commissioner's Court shall not be deemed an acceptance of the proposed dedications, if any, shown thereon, and shall not impose any duty upon the County concerning maintenance or improvements of any such dedications. The Commissioners Court will determine which dedications will be accepted for county maintenance based on interconnectivity with existing county or state maintained roads. The enforcement of any plat or deed restrictions is the responsibility of the Subdivider and property owners in the subdivision. It is the obligation of the developer to organize the Property/Homeowners Association for the purpose of infrastructure maintenance.
3. **Definitions.** For the purpose of this Order, the terms, phrases, words, and their derivations used in these regulations shall have the meaning as stated in Appendix A. When not inconsistent with the context, words used in the present tense include the future; words used in the plural include the singular number. The word "shall" and "will" are always mandatory, while the word "may" is merely permissive. As used herein, singular nouns and pronouns shall include the plural, and the masculine gender shall include the feminine gender, where necessary for a proper understanding of these Rules. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in governmental planning and engineering practices.

4. **Enforcement.** In addition to any other remedy provided by law, at the request of the Commissioner's Court, the County Attorney or other prosecuting attorney may file an action in a court of competent jurisdiction to:
  - (a) enjoin the violation or threatened violation of a requirement established by, or adopted by the commissioners court under a preceding section of this chapter; or
  - (b) recover damages in an amount adequate for the county to undertake any construction or other activity necessary to bring about compliance with a requirement established by, or adopted by the commissioner's court under a preceding section of this chapter.

Pursuant to Chapter 232.005(b), an offense under these regulations is a Class B misdemeanor punishable by fine or imprisonment or both.

5. **Special Provisions.**

- A. It shall be unlawful for the Burnet County Clerk to record the Final Plat or replat, unless and until the same shall have been approved by the Burnet County Commissioners Court.

6. **Legal Provisions.**

- A. **Conflicting Orders.** If any other County Order is in conflict with this Order, the more stringent rules will apply. Nothing will be permitted under the provisions of this Order that is in violation with another valid Order of the County.
- B. **Severability Clause.** If any provision of this Order, or the application thereof to any person or circumstance(s) is held invalid, the remainder of the Order, and the application of such provision to other persons or circumstances, shall not be affected thereby.

7. **Guarantee of Performance.** No plat of any subdivision shall receive final approval unless the subdivider has complied or provided for compliance with the policies and procedures set forth in these regulations as they may be applicable. Until these policies and procedures have been complied with by the subdivider and the plat approved by the Commissioners Court as herein required, no septic system permit or development permit shall be issued by the Burnet County Environmental Services Department as to any property in an unrecorded subdivision developed subsequent to this Order.

8. **Acceptance by Commissioners Court of Subdivision Streets built prior to April 24, 2000 for County maintenance and Public Subdivision streets subsequent to the date of this Order.**

- A. Main arterial roads within any subdivision established prior to April 24, 2000 must have been dedicated to the public.
- B. All subdivisions affected under this section must reach fifty (50%) percent or greater occupancy and/or a constant daily minimum traffic count consistent with public safety as determined by the Precinct Commissioner.
- C. Property owners, within the subdivision, or subdividers, affected by this section, shall donate all material costs needed to improve roads to meet county specifications as a method of acceptance of subdivision roads. County will provide labor and equipment.
- D. Only the main arterial roads with a minimum 50 foot right-of-way (or an adequate right-of-way as deemed adequate by the commissioners court) in a subdivision will be considered for maintenance acceptance.

- E. Request for acceptance as county roads, must be by written petition signed by a majority of the property owners and/or the authorized representative of the subdivision association and/or the governmental trustees or entity.
- F. It shall be unlawful for commissioners to maintain the streets and roads in any subdivision, and Burnet County will not accept or maintain said street and roads in any subdivision, unless and until such streets and roads have been constructed as specified in these regulations or regulations in effect at the time subdivision was established and the required utilities and drainage facilities have been installed, and such improvements have been accepted by order in writing by the Burnet County Commissioners Court in open session.

9. **Exceptions to Plat Requirement**

Persons dividing property based on the following section should be aware of lot sizing requirements based on regulations relating to the Central Texas Groundwater Conservation District and the Burnet County Regulations for On-site Sewage Facilities.

- A. All provisions of Section 232.0015 of the Texas Local Government Code, as now in effect or hereafter amended, are hereby incorporated by reference. If a conflict exists between these Rules and the provisions of said statute, the provisions of said statute shall control over these Rules. In accordance with Local Government Code, a subdivision plat is not required if the owner of a tract of land divides the tract into two or more parts as follows:
  - 1. the owner does not lay out a part of the tract for streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts; and
  - 2. the land is to be used primarily for agricultural use, as defined by Section 1-d, Article VIII, Texas Constitution, or for farm, ranch, wildlife management, or timber production use within the meaning of Section 1-d-1, Article VIII, Texas Constitution.
  - 3. If a tract described by Subsection 2 ceased to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, the platting requirements of this regulation apply.
- B. The division of a tract of land located outside the limits of a municipality into four or fewer parts and does not lay out a part of the tract for streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, and 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 regulation shall apply.
- C. The division of a tract of land located outside the limits of a municipality into two or more parts 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 for streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts
- D. The division of a tract of land located outside the limits of a municipality into two or more parts and does not lay out a part of the tract for streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or

owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts if all the lots are sold to veterans through the Veteran's Land Board Program.

- E. The provisions of these regulations 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 for streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.
- F. The division of a tract of land located outside the limits of a municipality into two or more parts if:
  - 1. the owner of the land is a political subdivision of the state; and
  - 2. the land is situated in a floodplain; and
  - 3. the lots are sold to adjoining landowners.
- G. The division of a tract of land located outside the limits of a municipality into two or more parts if:
  - 1. the owner does not lay out a part of the tract for streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts; and
  - 2. one new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of these regulations.
- H. The division of a tract of land located outside the limits of a municipality into two or more parts if:
  - 1. the owner does not lay out a part of the tract for streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts; and
  - 2. all parts are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.
- I. An Owner whose subdivision is exempt from the platting requirements of these Regulations shall provide the following items to the Burnet County Development Services Office for review. Upon approval of the Burnet County Development Services Department a permanent record will be maintained in the county GIS system for that property.
  - 1. A duplicate copy of the recorded conveyance instrument, with legible metes and bounds description attached hereto;
  - 2. A survey or sketch showing the boundaries of the Lots, adjacent roads and adjacent property owners;
  - 3. An executed registration form in the form promulgated by the County which shall require the Owner to acknowledge that all Lots remain subject to the on-site wastewater rules and development permit requirements of the County.

10. CHAPTER 245 DETERMINATIONS

A. Expiration of Existing Permits (Dormant Projects)

Any permit that does not have an expiration date, and where no progress towards completion of the project has occurred shall expire on the first anniversary of the date that the Burnet County Commissioner's Court approved the permit.

B. Expiration of Existing Projects

Any project that does not have an expiration date, and where no progress towards completion of the project has occurred shall expire on the second anniversary of the date that the Burnet County Commissioner's Court approved the project. Progress towards the completion of the project shall include any of the following:

1. An application for a final plat is submitted to the Burnet County Commissioner's Court.
2. A good faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of a project.
3. Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located.
4. Fiscal security is posted with Burnet County to ensure the performance of an obligation required by Burnet County.
5. Utility connection fees or impact fees have been paid to a regulatory agency.

C. Application for Establishment of Chapter 245 Rights

The provisions of this section shall apply to any application for a subdivision permit or project for which an applicant desires to establish rights under Chapter 245 of the Texas Local Government Code.

A subdivision application shall be submitted to the County, and shall be initially reviewed for completeness to ensure that all required items are available for technical review purposes. The application shall state the proposed date of applicable rules for the first in the series of permits, and the applicant shall supply documentation in support of the request. The following items may be considered as part of the application documentation:

- (a) Proof that a good-faith attempt was previously made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
- (b) Documentation of costs that have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

- (c) Documentation of fiscal security posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
  - (d) Documentation of utility connection fees or impact fees for the project paid to a regulatory agency.
- D. If no portion of the land subdivided under a plat approved under these regulations is sold or transferred before January 1 of the 51st year after the year in which the plat was approved, the approval of the plat expires, and the 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 these regulations at the time the plat is resubmitted

Any application not deemed complete by the County shall be rejected, and the applicant shall be notified in writing of the missing or incomplete items within 10 working days of the initial application. An incomplete application shall expire if the missing or incomplete items are not provided by the applicant within 45 days of the date of initial submission of the application.

The County shall not accept an application or establish rights under Chapter 245 of the Texas Local Government Code where the application does not clearly specify land uses, densities or intensities.

Each application shall be reviewed by the Development Services Director or their designee in consultation with the County Attorney. Where the documentation submitted by the applicant is adequate to confirm a determination that rights exist under Chapter 245, then the regulations in place at the time such rights vested shall be applied in the further review of the project.

The Development Services Director or their designee shall either confirm or deny the application within 45 days of the date of the initial submission of the application.

The applicant may appeal a final determination by the Development Services director or their designee under this section to the County Commissioner's Court within 30 days of the rejection of the application decision of the Development Services Director or their designee.

The Commissioner's Court may enter into a consent agreement with the applicant that is intended to resolve a good-faith dispute concerning development rights and applicable regulations in order to avoid the cost and uncertainty of litigation to both parties.

The provisions of this section shall only apply to the specified land uses, densities and intensities set forth in the Fair Notice documentation provided by the applicant. Any modification of the land uses, densities or intensities shall be considered a new project subject to current County regulations.

**ARTICLE 2. General Subdivision Requirements**

A. **General Requirements.** Any Owner who subdivides a tract of land shall:

- 1. Comply in all respects with these regulations; and
- 2. Prepare and submit to the Commissioners Court an application for approval of the proposed Subdivision in accordance with the terms and procedures set forth in these regulations.

B. **Filing Deadlines and Hearings.** A completed Preliminary Plat and application, with two copies, must be on file in the Development Services Office and all fees paid thirty (30) days prior to Preliminary Plat Hearing. Upon receipt of a completed application and plat, the hearing on the Final Plat shall be 14 days after the Preliminary Plat Hearing but in no event shall it be over 60 days from the filing of the completed application.

- C. **Subdivision Approval Process.** No subdivision shall be permitted until the Owner has satisfied each of the following steps in the order indicated:
1. Filing of the Preliminary Plat and Application and any applicable fees as required herein.
  2. Approval of Preliminary Plat by Commissioners Court.
  3. Approval of Final Plat by Commissioners Court.
  4. Filing of Final Plat of record with the County Clerk, to be recorded in the Official Public Records of the County.
- D. **Transmittal Materials.** All submissions to the Commissioners Court pursuant to these regulations, including amendments or supplemental materials, shall be filed with the Development Services Office, including the official application form to be provided by the County.
- E. **Application Materials.**
1. **Preliminary Plat.** Each application for Preliminary Plat shall be filed as herein directed and include the following:
    - a. Three 18" x 24" black line copies of the Preliminary Plat;
    - b. the application fee;
    - c. A tax certificate showing all taxes currently due with respect to the Original Tract have been paid;
    - d. A completed application in the current form promulgated by the County;
    - e. All other documents or reports required pursuant to these regulations and any associated bonds.
    - f. Any requests for variances to these regulations shall be made in writing and submitted with the application. The request shall state all reasons for such request for a variance.
  2. **Recorded Plat.** Upon approval by the Burnet County Commissioner's Court, three 18" x 24" black line copies of the Final Plat along with an original, current tax certificate shall be presented to the County Clerk for recording as the Record Plat. All writing and drawings on the Record Plat must be large enough to be easily legible. An electronic copy of the plat shall be submitted to the 911 coordinator. The electronic copy of the plat shall be drawn at Texas Central State Plane Grid NAD 83' and scaled to surface values based on the origination  $x,y,z=0,0,0$ . The scale factor used shall be clearly marked on the face of the plat. An electronic copy of the plat shall be presented to Burnet County at Texas Central State Plane Grid and at surface values. All rights-of-way and easements shall be based on surface values.
- G. **Application Review Periods.**
1. If a person submits a plat application to the Development Services Office that does not include all of the documentation or other information required herein, the Development Services Department shall, not later than the 10<sup>th</sup> business day after the date the Commissioners Court receives the application, notify the applicant of the missing documentation.
  2. An application is considered complete when all documentation or other information required herein is received.

3. The Commissioners Court shall take final action on a plat application, including the resolution of all appeals, not later than the 60<sup>th</sup> day after the date a completed plat application is received by the Commissioners Court.
  4. The 60 day time period for approval may be extended as follows:
    - a. for a reasonable period, if agreed to in writing by the applicant and approved by the commissioners court or the court's designee;
    - b. 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
    - c. applies only to a decision wholly within the control of the commissioner's court or the court's designee.
  5. The Commissioner's Court may refuse to approve a plat for recordation based on the provisions in the Texas Local Government Code Section 232.0033. If the Commissioners Court or the Development Services Department disapproves a plat application, the applicant shall be given a complete list of the reasons for the disapproval by certified return receipt mail.
- H. **Fee.** The County may impose an application fee and inspection fee as set forth in Appendix C to cover the cost of the County's processing of the application and inspection of street, road, and drainage improvements described by the plat. 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 County Commissioners Court. The owner of the tract to be subdivided must pay the fee at the time of the submission of an application before the County conducts a review of the plat. The application shall be deemed incomplete if the fee is not paid at the time of submittal.
- I. **Subdivisions within the ETJ of a Municipality.** The Plat must indicate whether the land covered by the plat or replat is in the extraterritorial jurisdiction of a municipality. If so, it must be approved by the appropriate municipal authorities prior to being filed as determined by any written agreement entered into by the County and municipality under Section 242.001 of the Local Government Code if the agreement authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction. The County Clerk shall require written proof of exemption from a municipality to be filed with the Record Plat. In the event the land is subject to both municipal subdivision regulations and these regulations, then the stricter standard shall apply and may be enforced by either the city or the County or both.
- J. **Wastewater and Development Permits.** The County shall not issue an On-Site Sewage Facility or development permit, if any, on any parcel of land unless that property is in compliance with all the requirements of these Regulations and the Burnet County Rules of On-Site Sewage Facilities.
- K. **Privately Maintained Roads/Streets.** If a street or road in a subdivision is to be privately maintained the following criteria must be satisfied.
  - (a) The roads must be constructed to the same standards as required for County roads.
  - (b) The following note shall be conspicuously displayed on the plat:  
"By filing this Plat [Owner], and all future owners of property within this subdivision, by purchasing such property acknowledge and agree that the County shall have no obligation whatsoever to repair or accept maintenance of the roads in this subdivision."
  - (c) Restrictive covenants establishing a homeowners association, whose purpose shall be, but not limited to, the maintenance and repair of roads in the subdivision shall be filed in the Official Public Records of Burnet County concurrently with the recording of the Plat.

**Preliminary Plat.**

- A. **Shall submit a preliminary plat to Commissioners Court.** To secure the review and approval of a proposed subdivision by the Commissioners Court, the subdivider shall submit a preliminary plat and a completed subdivision application, as promulgated on the form on file with the County, to the court prior to making any street and road improvements or installation of utilities within any roadway. A copy of the Preliminary Plat shall be filed (but not recorded) with the Development Services office thirty (30) days prior to the hearing to consider preliminary plat. On approval of said preliminary plat the subdivider may proceed with the preparation of a final plat and such other plans and documents required by this Regulation.
- B. The plat shall be prepared by a licensed engineer or licensed land surveyor, registered to practice in the State of Texas, in accordance with these regulations and should depict the entire layout showing layouts of street blocks and drainage for subdivision. Where the proposed subdivision constitutes a unit of a larger tract owned by the subdivider which is intended to be subsequently subdivided as additional units of the same subdivision, the subdivision plat should be accompanied by a layout of the entire area showing the tentative layout of streets, blocks, drainage for such use. The overall layout, if approved by the Commissioners Court, shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of Burnet County.
- C. The preliminary plat shall provide the following information:
- (1) Legal description. The legal description of the land to be subdivided shall be sufficient for the requirements of title examination, including the current deed.
  - (2) Statement of conformance or list of variances. The statement of conformance shall declare that the preliminary plat (including its supporting information) conforms to these Rules (including the associated Appendices) or shall list the instances in which it does not comply with these Rules, the reason for each such non-compliance, and whether a variance is requested.
  - (3) Location Map. A location map or sketch at a scale of not more than four thousand (4,000) feet to one (1) inch shall show the proposed subdivision, existing adjacent subdivisions, school district lines, and roads in the vicinity.
  - (4) Vicinity Map. A vicinity sketch or map at approximately one (1) inch = four hundred (400) feet scale shall show existing subdivisions, streets, easements, right-of-way, parks and public facilities, tracts of acreage in the vicinity, the general drainage plan and ultimate destination of water, and possible storm sewer, water, gas, electric, and sanitary sewer connections by arrows.
  - (5) Location with respect to any municipal ETJ line. A statement indicating whether any part of the proposed subdivision lies within any extraterritorial jurisdiction of a municipality (under Texas Local Govt. Code §§ 42.021 or 212.001) shall be provided. If an ETJ line traverses the subdivision, it shall be delineated and identified upon the preliminary plat.
  - (6) Map of earlier plat. If the subdivision is part of a previously filed subdivision plat, a map shall be provided showing the portion of the earlier-filed plat that is owned by the applicant and included in the preliminary plat.
  - (7) Restrictive covenant. Any restrictive covenants proposed to be imposed for the subdivision should be attached for reference. It should be noted whether these are existing or

proposed and if proposed, at what time they will be recorded, prior to or concurrently with the recording of the final plat.

(8) Certification by the owner of conformance or submittal for review. The proposed preliminary plat shall satisfy the requirements of the rules of the U.S. Fish and Wildlife Service, Texas Parks and Wildlife, the Environmental Protection Agency, the United States Army Corps of Engineers, Lower Colorado River Authority, Texas Commission on Environmental Quality, municipal utility districts, 911 addressing, school district, the gas, electricity, water, telephone, and television cable companies, irrigation, ground water, or water control and improvement districts, U.S. Post Office and any other political subdivision whose approval will be required before construction can begin; or that the agencies mentioned in the preceding paragraph were given at least ten (10) working days to review the proposed preliminary plat. This certification shall be in letter form and shall include the name, title, address, and telephone number of the person to whom the applicant delivered the preliminary plat for review.

(9) The preliminary plat shall include the name, address, and telephone number of the record owner(s) of lands being subdivided, and of the engineer, the surveyor, and any other persons responsible for the preparation of the data and information being submitted.

(10) The preliminary plat shall include the subdivision name, which shall not duplicate the spelling or the pronunciation of any existing subdivision in the County.

(11) The preliminary plat shall delineate and define the boundary of the subdivision by metes and bounds sufficiently for the requirements of title examination. Subdivision boundaries shall be indicated by a heavy line at least one sixteenth (1/16) inch wide. The total acreage in the subdivision shall be noted.

(12) The preliminary plat shall locate the subdivision with respect to an original corner of an original survey of which it is a part.

(13) The preliminary plat shall show the primary control points or description used to establish the subdivision. The description, location, and tie to such control points, including all dimensions, angles, bearings, block numbers, and summary data, shall be noted.

(14) The preliminary plat shall note the existing conditions within or immediately adjacent to the subdivision, including the location, dimension, name, and description of each existing or recorded street; alley, reservation, easement, or other public rights-of-way or visible private encumbrance upon the land within or adjacent to the subdivision, intersecting or contiguous with its boundaries, or forming such boundaries (include the name of the subdivisions in which a street, alley, etc. is located); location, dimension, description, and flow line of any existing watercourses, drainage structures, or irrigation structures within the subdivision or within one hundred and fifty feet (150 feet) of the boundary of the subdivision; location, dimension, description, and name of all existing or recorded lots and blocks, parks, public areas, or permanent structures within the subdivision or contiguous with the subdivision; and, location, dimension, description, and name of all existing water, sewer, electric, gas, telephone, television cable, irrigation or other utilities.

(15) The preliminary plat shall show the adjoining property owners' names and references to the deeds under which they hold ownership, or if the adjoining property is within a recorded subdivision, state the subdivision's name and provide the reference for where its plat is recorded in the Official Public Records of Burnet County.

(16) The preliminary plat shall note the date of preparation, date of survey, the scale of the plat, and North arrow.

(17) The preliminary plat shall include topographic information, including contour lines for every ten vertical foot. The information shall include the flow lines of existing gutters and drainage ways.

It shall be sufficiently detailed to determine the existing drainage to and from the proposed subdivision and to determine the adequacy of the proposed drainage plan. Elevations shall be based on published U.S.C. & G. S. datum and the benchmark used shall be noted on the plat.

(18) The preliminary plat shall provide a general plan for storm water drainage to efficiently manage the flow of storm water in the subdivision and coordinate the subdivision drainage with the general storm drainage pattern for the area. Post development runoff shall not exceed pre-development runoff based on a 100 year event.

(19) The preliminary plat shall show the approximate location, dimensions, and description of all proposed street rights-of-way, alleys, drainage structures, parks, squares, other public areas, reservations, easements, other rights-of-way, blocks, lots (lettered or numbered consecutively), permanent survey monuments, and other sites within the subdivision. The proposed width of each proposed street shall be measured at right angles, or radially where curved.

(20) The preliminary plat shall show the name of the proposed subdivision or any of the physical features (such as streets, parks, etc.). The name of a proposed street shall conform to the name of an existing street of which it may become an extension but otherwise shall not duplicate or conflict with the recognized name of any other street located in the area subject to these Rules. Street and subdivision names will be coordinated through the 911 coordinator to ensure no duplication of street names. This coordination with 911 is the responsibility of the developer. The street names must not be so similar in spelling or in pronunciation to the names of any similar features in Burnet County or in any incorporated city therein, as to cause confusion.

(21) The preliminary plat shall show building setback lines (front, side, and rear).

(22) The preliminary plat shall show the net area contained within each lot or tract to the nearest one tenth (1/10) of an acre.

(23) The preliminary plat shall show the limits of any flood hazard areas as indicated by the respective Burnet County Flood Insurance Rate Map(s) and the proposed finished floor elevation of any building within these flood hazard limits.

**THE FOLLOWING APPLY TO PROPOSED SUBDIVISIONS UTILIZING CENTRALIZED WATER AND/OR WASTEWATER:**

(24) The preliminary plat shall include or have attached a document containing a description in English of the water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operational.

(25) The preliminary plat shall have attached a document prepared by an engineer registered to practice in the State of Texas certifying that the water and sewer facilities proposed are in compliance with the model rules adopted under Section 16.343, Water Code, and a certified estimate of the cost to install water and sewer service facilities.

(26) The preliminary plat shall have attached a certified letter from a water utility provider that water is available to the proposed subdivision sufficient in quality and quantity to meet the minimum state standards required by Section 16.343, Water Code, and that water of that quality and quantity will be made available to the point of delivery to all lots in the subdivision.

(27) The preliminary plat shall have attached a certified letter from a sewer utility provider that sewage treatment facilities meet minimum state standards to fulfill the wastewater requirements of the subdivision or furnish certification by the Burnet County Environmental Services Department indicating that the lots in the subdivision can be adequately and legally served by septic systems as provided under Chapter 366, Health and Safety Code.

(28) The preliminary plat shall have attached a design for roads that meet or exceed the minimum standards as adopted by the county and contained herein and provide adequate drainage meeting standard engineering practices.

(29) The preliminary plat shall have attached certification that electrical connections and gas connections, if available, will meet minimum state standards.

E. **Designation of subdivision as public or private.** The plat shall show the designation of the proposed subdivision improvements as public or private.

H. **Flood Plain and Drainage Information.**

1. Each preliminary plat shall include base flood elevation data.
2. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
3. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
4. All subdivision plats shall have the flood hazard area as indicated on the respective flood insurance rate map(s) clearly delineated on the plat and where appropriate, each lot shall be shaped and sized so as to provide adequate building space.
5. The developer, builder, seller or agent shall inform in writing, each prospective buyer of subdivision lots located in flood hazard areas that such property is in an identified flood hazard area and that a Development Permit will be required before a structure can be placed on the property.

I. **Water, Wastewater and Utilities Information.** The following information must be provided to the Court.

1. Designation of the entity supplying electric, phone and gas utilities or a statement that such utilities are not available.
2. The location of all proposed utility easements and/or infrastructure, including water well sanitary easements, if applicable.
3. Designation of the water and sewer utility provider and the source of the water intended to serve each Lot within the subdivided area or, if the source of water is underground well(s), compliance with the Central Texas Groundwater Conservation District regulations.
4. Certification that all Lots have been designed in compliance with the Rules of Burnet County for On-Site Sewage Facilities.

J. **Proof of Ownership.** The Developer shall provide proof of ownership.

K. **County Liability.** The Preliminary and the Final Plat shall contain the following two provisions: "The County shall not be responsible for the quantity or quality of a reliable water source"; and for plats which propose private roads, the plat shall state the following: "The County shall not accept all or a portion of the roads in this subdivision for maintenance."

12. **Final and Record Plat.** Upon approval of the Preliminary Plat, the Subdivider shall revise the plat in accordance with the requirements and recommendations of the Commissioners Court and shall cause to be prepared a Final Plat of the proposed subdivision for consideration pursuant to these regulations. The hearing for final plat approval shall be at least fourteen (14) days after Preliminary Plat hearing.
13. **Approval by Commissioners Court if the above has been adhered plus:**
1. All roads must meet County specifications and standards in the regulations under design standards.
  2. Drainage appurtenances have been inspected by the precinct commissioner or their designee for compliance to the drainage plans provided by the developer.
    - a. Bonding for the proper construction of all roads, streets, drainage and infrastructure (to include water and/or wastewater) requirements. Bond amount to be determined by a licensed professional engineers statement of cost and is not to exceed the estimated cost of constructing roads, streets, drainage and infrastructure requirements.
  3. Lot and block monumentation to be set by a registered professional surveyor before recordation of the plat.
- A. **Requirements.** The County Commissioners Court may approve a public subdivision when the following requirements are present:
1. A plat as required herein is presented for approval.
  2. A plan and time frame for the development of the streets and roads is presented for approval setting forth:
    - a. Design standards for streets and roads;
    - b. Designs for drainage and a complete comprehensive drainage study pursuant to 30 TAC 285.4(c);
    - c. Widths of streets, roads and right-of-way;
    - d. Surface treatment of streets and roads.
  3. The plan must be prepared by a registered engineer or surveyor.

### **Revision of Subdivision Plats (REPLATS)**

- A. **Requirements:**
1. Letter of application to Commissioner's Court requesting the revision.
  2. Notice to be published by the applicant as herein specified.
  3. Cost of publication to be paid by applicant.
  4. Letter from the applicant stating the revision is not in violation of existing deed restrictions to Commissioners Court.
  5. Letter from Property Owners Association President stating they have no objection to the revision or replat.
  6. If no Property Owners Association, a notice to each lot owner at his address on said tract by certified mail or regular mail, return receipt requested, and presented to the Commissioner's Court at the time of presentation of application.
  7. Persons replatting property within the service area of a water or sewer utility provider shall have the written consent of the provider.

- B. **Application.** A person who owns subdivided land that is subject to this order may apply in writing to the Commissioners Court of the county for permission to revise the subdivision plat that has been filed for record with the County Clerk.
- C. **Notice.**
1. After the application is filed with the Commissioners Court, the Court shall require a notice by the applicant to be printed in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the Commissioners Court will meet to consider the application and to hear protests to the revision of the subdivision plat.
  2. The notice must be published at least three times within the period beginning on the 30th day and ending on the 7th day before the date of the meeting. All cost of publication shall be paid by the applicant.
  3. If all or part of the subdivided tract has been sold to non-developer owners, notice shall also be given to each owner, at his address on said tract, by certified mail or registered mail; return receipt requested.
- D. **Hearing.** The Commissioners Court, during a regular meeting of the court, shall adopt an order permitting the person to revise the subdivision plat if it is shown to the court:
1. That the revision will not interfere with the established rights of any owner of a part of the subdivided land;
  2. If the revision interferes with the rights of an owner of a part of the subdivided land, the owner has agreed to the revision;
  3. That the revision is not a violation of any existing deed restriction(s); or
  4. That the applicant has complied with Section 232.009, Texas Local Government Code.
- E. **Filing.** If the Commissioners Court permits a person to revise a subdivision plat, the person shall make the revision by filing for record with the County Clerk a revised plat or part of a plat showing the changes made to the original plat.

## CANCELLATION OF SUBDIVISIONS

An application may be submitted to the County to request the cancellation of a subdivision and shall be processed according to the provisions stated below. All fees must be paid and accompany the application.

### DIVISION 1. ALL PLATTED SUBDIVISIONS

A. A person owning real property that has been subdivided in this County into lots and blocks or into small subdivisions may apply to the County Commissioners Court for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the subdivision. If, on the application, it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the County 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 describe the subdivision or the part of it that is cancelled. The County Commissioners Court shall enter the Order in its Minutes. After the cancellation instrument is filed and recorded in the Official Public Records of the County, the Burnet County Chief Appraiser shall assess the property as if it had never been subdivided.

B. The County 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 County Commissioners Court shall take action on an application at a regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice.

C. 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 Division, 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 Burnet County Chief Appraiser shall back assess the tract on an acreage basis.

D. 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 seventy-five (75) percent of the property included in the subdivision, phase, or identifiable part, the County Commissioners Court by Order shall authorize the cancellation in the manner and after notice as provided for herein. However, if the Owners of at least ten (10) percent of the property affected by the proposed cancellation file written objections to the cancellation with the County Commissioners Court, the grant of an order of cancellation is at the discretion of the County Commissioners Court.

E. 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 (1) the nearest remaining public highway, county road, or access road to the public highway or county road; or (2) any un-canceled common amenity of the subdivision.

F. A person who appears before the County 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 County Commissioners Court Order granting the cancellation.

G. The County Commissioners Court may deny a cancellation under this section if the County Commissioners Court determines the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development.

### **ARTICLE 3. Design Standards and Requirements**

#### **A. General Design Principles and Objectives**

1. Conformity with the General Plan. All subdivisions shall conform to a general plan for orderly and unified development of streets, utilities within roadways and public land facilities, as well as other provisions of this and other present regulations and codes.

2. Standards for Site Improvements. All roads and streets, alleys, utility installations and other site improvements required to be installed by the subdivider under the provisions of these regulations shall conform to the requirements of this Section and to the then current policies, specifications, and regulations of Burnet County, or other approved agencies responsible for design, construction methods and standards, payment, refunds, credits, and other financial arrangements.

#### B. Construction and Specifications of Roads and Drainage.

1. General. The specifications for construction of roads and streets are based on the requirement that a flexible base with an asphalt pavement will be constructed. The materials, design, specification and procedure shall conform to those of the County for similar construction. This also applies if a concrete pavement is used instead of the flexible base with asphalt pavement. Base material used for roads or streets shall conform to the requirements of Burnet County or the following: argillaceous limestone, calcareous, or calcareous clay particles, with or without stone, conglomerate, gravel, sand or other granular materials obtained from sources approved by the Commissioners Court. The base material shall conform to Texas Department of Transportation Standard (TxDot) for base material reference item 247, type D, grade 4, or as approved by the precinct commissioner.

2. Base Material. The base material shall meet the following minimum requirements and must be inspected and approved, in writing, by the Precinct Commissioner concerned or other person designated by the Commissioners Court:

a. A maximum of zero percent (0%) retained on an inch and a quarter (1 1/4") screen.

b. Between eight percent (8%) and thirty percent (30%) retained on a seven-eighths (7/8") screen. Between thirty percent (30%) and sixty percent (60%) on a three-eighths (3/8") screen. Between forty-five percent (45%) and seventy percent (70%) on a #4 mesh sieve and between seventy percent (70%) and eighty-five percent (85%) on a #40 mesh sieve.

c. A plasticity index not to exceed twelve (12).

d. Liquid limit not to exceed 30.

3. Subgrade and Base The preparation of the subgrade shall follow good engineering practices. The subgrade may be prepared and allowed to reach a Proctor Density of ninety percent (90%) through natural cycles of consolidation or may be rolled and watered where placement of the base material is to be done immediately. Testing shall be done at five hundred foot (500') intervals or as required by the respective precinct commissioner, with a minimum of two (2) tests, or wherever there is a change in the subgrade material. The subgrade must be inspected and approved by the Precinct Commissioner concerned or other person designated by the Commissioners Court, in writing, prior to any application of base. The grade base material must be evenly applied to a maximum depth of 8 inches uncompacted. A Proctor Density of ninety-five percent (95%) shall be derived using standard construction procedures with testing done at fifteen hundred foot (1500') intervals, with a minimum of two (2) tests. Proctor Density test results must be presented to the Precinct Commissioner concerned or other designated person, and all preparatory work must be inspected and approved, in writing by the Precinct Commissioner or other designated person before any topping may be done. Base must be to state specifications (ie. TxDot item 247, grade 4, type D) or as approved by the precinct commissioner.

#### 4. Width of Right-of-Ways.

a. Streets or roads within such subdivision shall have a width of not less than 50 feet nor more than 100 feet. These widths shall be derived from schedule 2 (Road Standards) of these regulations.

b. The shoulder-to-shoulder width on collectors or on main arteries within the right-of-way shall not be less than 32 feet nor more than 56 feet. Any street or road utilizing sheet flow drainage shall have a shoulder to shoulder width extending 4 feet beyond the edge of the pavement or ribbon curb on either side:

c. The shoulder-to-shoulder width on all other streets or roads within such subdivision within the right-of-way shall not be less than 25 feet nor more than 35 feet.

d. Width of alleys shall not be less than twenty (20) feet.

5. Width of County Road. A proposed subdivision that enjoins or encompasses an existing or proposed 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 the side of said street from the center of the existing public road to establish at least one-half of the required right of way so that the minimum right-of-way required by these regulations can be established, being defined herein as fifty (50') feet.

6. Drainage, Minimum Grades, Retards, Headwalls, etc.

a. All drainage requirements must comply with the Lower Colorado River Authority's Upper Highland Lakes Watershed Order where applicable. Generally it is desired that surface drainage from private property to be taken to roads and streets, or drainage courses as quickly as possible, but the practice of using roads and streets as major drainage courses is prohibited. Minimum grades of roads and streets shall be three-tenths of one percent. All drains, drainage structures and appurtenances shall be designed by a registered professional engineer. Drainage calculations shall be made using the Rational Method (HEQ-HMS and HEQ-RAS are acceptable for larger acreages) for determining storm water runoff and Manning's Equation for ditch and pipe capacities. All data and calculations shall be presented with the preliminary plat.

b. All roads and streets shall try to accommodate drainage using sheet flow. Where this is not possible, roads and streets shall have ditches which are a minimum depth of 12" below the shoulder of the subgrade. Greater depths shall be provided as required to accommodate greater flows. Concrete or rock retards shall be installed in ditch lines in areas where needed. Drainage structures of a permanent type shall be provided at crossings of drainage courses with roads and streets where needed in order that a minimum of inconvenience and hazard to the traveling public will occur, and in order to maximize drainage to and excessive maintenance of public property. Such drainage structures shall have a minimum of 40 feet clear roadway. Type, size, and length of drainage conforms to standard engineering practices.

c. All roadways crossing streams or roadways subject to flooding must be rip-rapped and/or have concrete headwalls on both sides.

d. Open channels and ditches shall be constructed to proper cross section, grade and alignment so as to function properly and without permitting destructive velocities. Grades exceeding six percent (6%) may, as determined by the respective precinct commissioner, require concrete chutes and/or flow restrictive devices.

7. Surface Treatment.

a. Where road or street sections without curbs are constructed, the flexible base shall comply with schedule 2 of these regulations. The pavement shall be at least twenty (20') feet wide of a "double asphalt or emulsion surface treatment" or of a minimum of one and one-half (1 ½") inch of "plant mix" compacted with a seal coating asphalt treatment under the "plant mix".

b. The “double asphalt or emulsion surface treatment” or two course surface treatments shall conform to the following:

1. Prime coat shall be MC-30 or its equivalent with “plant mix” hot mix.

2. A two-course “squirt-top” consisting of #4 grade cover stone-treated with a thirty-five hundredths (.35) gallons per square yard of hot asphalt. The second course to be of a #5 grade cover stone treated with twenty-eight hundredths (.28) gallons per square yard hot asphalt of AC-5 type in both cases, or variances as approved by the Precinct Commissioner.

3. Rolling is required to achieve a uniform embedment and the contractor shall broom off loose aggregate remaining. If bleeding occurs, the contractor shall apply sand (ag lime) or #5 grade topping rock to the finished surface for whatever period is required to absorb the excess asphalt.

4. Concrete pavement shall have a minimum thickness of 6” and a minimum compressive strength of 3000 psi (pounds per square inch) at 28 days. Design plans for concrete paving must be submitted by a registered professional engineer and reviewed by the county and approval given in writing before construction may begin.

#### 8. Requirements for Roads and Streets.

a. All dead-end streets or interior cul-de-sacs shall be provided with a properly crowned and sloped asphalt paved turnaround at the end thereof, with a diameter of not less than one hundred twenty-five (125) feet of right of way. Diameter of paving shall be sixty-two and one half (62.5) feet centered in right-of-way. Hammerhead type turnarounds will be considered on an as required basis and shall be considered as a variance.

b. In a subdivision where water lines or other utilities are installed on rights-of-way, they shall be located off and away from the roadways (paved center portion and shoulders) and buried to a minimum depth of 30” and within three feet of property line.

c. The installation of any water or utility lines, side roads, culverts, curb cuts, driveways, etc. on county right of way shall be prohibited unless expressly permitted in writing by the county commissioner.

d. Subdivisions which may have adjoining privately owned properties that shall be subject to future subdividing may provide fifty (50) feet rights-of-way not more than one-half (½) mile apart at feasible locations for connecting future possible roadways with such adjacent properties. Unnatural drainage created by such connecting roadways and rights-of-ways shall be resolved beforehand by the land owners concerned through drainage easements or other lawful methods.

e. Uniform traffic control signs, guard rails and other safety features, as recommended by the Developer’s engineering firm or the Precinct Commissioner or his designee, should be installed at required locations on all subdivision rights-of-way dedicated for public use at the Developer’s expense. Culverts and bridges shall be at least as wide as the roadway portions (pavement and shoulder) of the streets and roads. Bridge abutments or other drop-offs located at the edge of the shoulder portions of any road or street should be indicated by installation of protective posts or other devices equipped with reflectorized markers.

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

g. Streets and roads must provide unhampered circulation through the subdivision. Where dead-end streets are designed to be so permanently, a turn-around shall be provided at the closed end having an outside finished paved roadway diameter of sixty-two and one half (62.5) feet and a street right-of-way diameter of one hundred twenty-five (125) feet. Dead-end streets may be platted where the Commissioner concerned deems it desirable and where the land adjoins property not subdivided, in which case, the street shall be carried to the boundaries thereof.

h. All roads and streets should intersect at a ninety (90) degree angle or within the designated limits of Schedule 2 (Road Standards) of this order.

i. Where roads and streets in an adjoining subdivision dead-end at the property line of a new subdivision, the said roads and streets shall be continued through the new subdivision, either in a straight line or a curve as provided elsewhere herein. Where no adjacent connections are platted, the roads and streets in the new subdivision must in general be the reasonable projections of roads and streets in the adjacent subdivided-tract. All roads and streets in new subdivisions should be platted so that a continuation of said roads and streets may be made in other subdivision in the future.

C. Lots and acreage tracts in a Subdivision pursuant to Chapter 285, Texas Administrative Code, relating to On-site Sewage Systems. (Proposed developments situated wholly or partially within the Lower Colorado River Authority (LCRA) Water Quality Zone should refer to the LCRA On-site Sewage Facility requirements for lot sizing.)

1. General Layout. Flag lots are generally prohibited. All lots require 50' of road or street frontage. The size, width, shape and orientation of lots shall be appropriate for the area of the county in which the subdivision is located, and for the type of development and use contemplated, and must insure compliance with Section 285.4 of the Standards for On-Site Sewerage Facilities promulgated by the TCEQ under authority of the Texas Sanitation and Health Protection Law, Texas Revised Civil Statutes, Article 4477-1; portions of which are set out and adopted herein:

## 2. Residential Lot Sizing.

a. General considerations. The failure of an on-site sewerage system may be caused by a large number of circumstances, including inadequate soil percolation, improper construction, design, installation, and misuse. The single most important factor concerning public health problems resulting from these failures is the residential dwelling density which is primarily a function of lot size. The failure of a system in a highly populated area is the fundamental cause of public health hazards resulting from on-site sewage disposal. Surfacing sewage provides a medium for the transmission of disease and the fact that many people are in the vicinity causes concern over the spreading of disease. Sewerage systems using soil absorption for effluent disposal are more likely to malfunction in high population density situations because the soil available to absorb or evaporate the effluent is limited. The failure of an absorption system on a small lot can be financially disastrous to the owner because the lot may not contain sufficient room to construct a new absorption field in a new location.

b. Platted subdivisions served by a public water supply. Subdivisions of a single family dwellings platted or created after January 1, 1988, and served by a public water supply but utilizing individual OSSF methods for sewage disposal, shall provide for individual lots having surface areas of at least one-half acre, or shall have a site-specific sewage disposal plan submitted by a registered professional engineer or Registered Professional Sanitarian and approved by the Permitting Authority or its designee. In no instance, shall the area available for such system be less than two times the design area. The location of an OSSF under this paragraph shall be in accordance with TAC 285.91 (10) of the TCEQ Regulations.

c. Platted subdivisions served by individual water systems. In subdivisions platted or created after January 1, 1988, for single family residences where each lot maintains an individual water supply well and an OSSF, the plat shall show the approved well location and a sanitary control easement around the well within a 100-foot radius in which no subsurface sewerage system may be constructed. A watertight sewerage unit or lined evapotranspiration bed with leak detection capability may be placed closer to the water well than 100 feet, provided the minimum separation stated in Table I of the Standards for On-Site Sewerage Facilities of the TCEQ is not violated. To minimize the possibility of the transmission of waterborne diseases due to the pollution of the water supplied for domestic use, each lot in a subdivision shall contain not less than one acre, or shall have site-specific planning materials prepared by a Registered Professional Engineer or a Registered Professional Sanitarian and approved by the Permitting Authority or its designee. In no instance shall the area available for such systems be less than two times the design area.

d. Approval of existing small lots or tracts. Existing small lots or tracts, subdivided prior to January 1, 1988, and not conforming to the minimum lot size requirements, may be approved for an OSSF provided the following conditions are met:

1. Minimum separation distances in TAC 285.91 (relating to Separation/Setback Requirements) of the TCEQ Regulations are maintained.

2. The site has been evaluated by the site evaluator in accordance with TAC 285.30 (relating to Site Evaluations) of the TCEQ Regulations.

D. Burnet County On-Site Sewage Facility Regulations. All subdivisions shall comply with the Burnet County On-Site Sewage Facility Regulations. Subdivisions located wholly or partially within the LCRA on-site sewage facility water quality zone shall comply with the LCRA on-site sewage facility regulations.

E. Manufactured housing communities or multi-use residential developments served by a central sewage collection system for on-site disposal. Manufactured housing communities and multi-use residential developments which are owned or controlled by an individual and which rents or leases space may utilize smaller lots than stated herein above provided a sewage disposal plan addressing replacement area is submitted to the permitting authority and approved. Developments of this type which connect living units to a sewage collection system for on-site disposal must provide planning materials for the system prepared by a registered professional engineer or registered sanitarian. The total anticipated sewage discharge shall not exceed 5,000 gallons per day from the connected homes and the OSSF must conform to the definition of OSSF's in TAC 285.30 of the TCEQ Regulations.

F. Exemptions and variances. Requests for exemptions or variances of any part or parts of these Standards for the design, installation or operation of any on-site sewerage system shall be considered on an individual basis. The burden of proof is the responsibility of the Registered Professional Engineer, Registered Professional Sanitarian or other qualified individual responsible for the design or installation of the system under consideration. This individual must demonstrate to the satisfaction of the TCEQ or licensing authority, that the exemption or variance has been requested because conditions are such that equivalent protection of the public health and environment can be provided by alternate means or construction features. Any such request must be accompanied by sufficient engineering or applicable data to meet the TCEQ or licensing authority's satisfaction. The TCEQ shall, at the request of local authorities, provide evaluation and comment services for any such local authority.

## 18. Additional Requirements

### A. Compliance.

1. Plans. Three (3) complete sets of plans, specifications and contracts covering construction of subdivision infrastructure, in the form of plans, or other satisfactorily written descriptions shall be filed with Burnet County Development Services Department upon filing of final plat. When required by the Commissioners Court these plans shall show such features as roadways, 100-year flood plain, cross-sections, and longitudinal slope for drainage, full description of proposed pavement or street improvement, its grade and slope, dimensions and specifications concerning public utilities to be installed showing proposed position on the ground when within street right-of-way, specifications of materials and constructions, and profile maps of all storm sewers showing both ground surface and flow line and any other pertinent information of similar nature.

2. Inspection of Improvements. The authorized representative of Burnet County shall from time to time inspect the construction of all utility facilities in street right-of-way in the subdivision during the course of construction to see that the same comply with the plats and standards governing the same. In this regard, free access to the subdivision shall be accorded Burnet County's duly authorized representative by the subdivider, his agents and employees. Failure of the County's representative to inspect will not diminish the obligation of the subdivider to install improvements in the subdivision in accordance with plans and specifications as approved by the Commissioners Court.

3. As-Built Plans. After all required improvements have been completed by the owner or subdivider of the subdivision, two sets of "record drawings" of all underground utilities that have been constructed shall be filed with the Burnet County Development Services Department within thirty (30) days after completion of all required improvements.

4. Street Improvements. All road and street improvements shall meet the current requirements of the Subdivision Regulations.

### 5. Water Systems.

a. General. All public water supply, treatment, storage and distribution facilities shall be furnished and installed in compliance with the requirements of the TCEQ.

b. Water Wells and Water Quality. If a sewage system is to be installed, it must meet the requirements of the TCEQ.

c. County Liability. The County shall not be responsible for the quantity or quality of a reliable water source.

d. Subdivisions utilizing underground water supplies shall comply with the requirements set forth by Appendix G of this order. Plats will require a signed approval from the Central Texas Groundwater Conservation District before consideration for final platting.

6. Flood Plain and Drainage. Pursuant to Chapter 5 of the Texas Property Code, no lot that falls within the federally designated 100-year flood plain shall be sold by the original developer in any subdivision unless it is so noted by agreeing parties.

7. Changes to Road Names. Any changes to any subdivision road name shall be in accordance with the Burnet County Street/Road Name and Address Assignment Policy Procedures.

8. Obstacles to Subdividing. The Owner or Owners of any such tract of land shall provide the Commissioners Court with proof that there are no obstacles to subdividing, including but not limited to any prohibitions of transfer of property under any lien document.

**Article 4. Other Provisions.**

**A. Subdivision Completion and Maintenance Bonds**

**1. Construction Bonds**

All construction shall be complete within 2 years after approval of final plat in a timely manner, and in accordance with the terms and specifications contained herein, the developer shall file a Subdivision Completion Bond, executed by a Surety Company authorized to do business in this State, and made payable to the County Judge of Burnet County, Texas or his successors in office.

The bond shall be equal to one hundred percent (100%) of the estimated cost of construction of roads, streets, street signs, water and/or wastewater utilities, required drainage structures and all other construction.

The Subdivision Completion Bond shall be submitted to the Commissioner's Court with the final plat.

The Subdivision Completion bond shall remain in full force and in effect until all the roads, streets, street signs, underground utilities, required drainage structures and all other construction in the subdivision have been completed to the satisfaction of the Precinct Commissioner, and the Construction Bond has been released by a Court order from the Commissioner's Court.

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 said Owner fails or refuses to correct the defects called to his attention in writing by the County, the unfinished improvements shall be completed at the cost and expense of obligee as provided.

The Burnet County Treasurer shall hold the bond until the bond is released by written order of the Burnet County Commissioners Court.

**2. Maintenance Bond**

To insure roads, streets, street signs, underground utilities, required drainage structures and all other construction are maintained to the satisfaction of the precinct Commissioner, a Maintenance Bond executed by a Surety Company authorized to do business in this state, and made payable to the County Judge of Burnet County, Texas or his successors in office, shall be substituted for the Construction Bond at the time of release of said Construction Bond.

The Maintenance Bond shall be equal to fifteen percent (15%) of the estimated cost of all construction based on the cost of construction to minimum county standards. This cost will be derived using an engineer's estimate.

The conditions of the Maintenance bond shall be that the Owner shall guarantee to maintain, to the satisfaction of Burnet County, 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 the Commissioners Court, in a good state of repair for a period of two years from the date of official release of construction security.

Periodic inspection of roads, streets, street signs, underground utilities, required drainage structures and all other construction, for which maintenance security is held, will be made by the precinct Commissioner during the period of liability covered by the Maintenance Bond. In the event any or all of the roads, streets, street signs, underground utilities, required drainage structures and all other construction are not being maintained in a good state of repair, the Owner will be so advised in writing and, if after a reasonable time, he fails or refuses to repair said items, they shall be maintained at the cost and expense of obligee as in said orders provided.

The release of any bond shall be by order of the Commissioner Court. To request a release the developer who posted the bond in question shall present a written request to release said bond.

If substantial patching is required during the two-year maintenance period, roads or streets must be resurfaced with a two-course surface treatment.

The Burnet County Treasurer shall hold the maintenance bond until the maintenance bond is released by written order of the Burnet County Commissioners Court.

### 3. Cash Bonds

Cash bonds may be accepted in lieu of surety bonds. The developer shall enter into a formal written and signed agreement for the performance of construction of the roads, streets, street signs, underground utilities, required drainage structures and all other construction related to the development. This agreement shall be approved by the county attorney. The amount of the cash bond is to be determined by the average of three (3) bona fide bids from competent contractors. The cash bond shall be held in the depository of the county's choice. The precinct commissioner in whose precinct the development is occurring shall have signatory responsibility and responsibility for the disbursement of the bond. Reductions or refunds from the cash bond shall be based on a 20/40/40 percentage completion of development. Upon completion of phases, the developer shall present a letter of completion from the project engineer to the precinct commissioner stating the completed work and upon majority approval of the commissioner's court may be granted a partial release of funds in the above specified amounts. The final forty percent (40%) shall not be released until a maintenance surety bond or a cash bond agreement and deposit for maintenance is received by the county. Final release of cash bonds are subject to majority approval from the commissioner's court. Variance from the specified refund amounts may be available by special consideration and a majority approval from the commissioner's court. The commissioner's court may accept a cash bond for one hundred and fifteen percent (115%) of the amount of construction withholding the extra fifteen percent (15%) in lieu of the maintenance bond for a period of two (2) years from the completion and approval of the subdivision construction. Each cash bond agreement may be unique and will require written approval from the county attorney and a majority approval from the commissioner's court.

### 4. Final Inspection

The Developer, upon completion of drainage, roads, streets or other facilities intended for the use of the public, or purchasers or owners of lots fronting or adjacent there to, shall request from the County a final inspection. The precinct Commissioner or their designee will inspect, within 10 days, the completed work for compliance. The Developer will be notified in writing, within 10 days of the final inspection, of approval or any work not found in compliance with these Subdivision Regulations.

### B. Penalty for Violation.

1. The Commissioners Court of Burnet County will cause an employee of the court, or any other person or persons it so designates, to review periodically deeds or sales contracts being recorded in the County Clerk's office to see that any subdivision affected thereby shall comply with requirements of these regulations and state law.

2. If deeds, contracts of sale, transfers of title, or other transactions do not comply with the plat requirements as set forth in these regulations and state law, the Commissioners Court of Burnet County or its representative can so notify the party selling or transferring title in whole or in part to comply with these regulations.

3. In the event the notified party refuses to comply with said requirements, the Commissioners Court of Burnet County can take appropriate action to obtain compliance.

4. A person commits an offense if the person knowingly or intentionally violates a requirement of these Regulations, including the Road Design and Construction Specifications incorporated into these Regulations and any appendices attached to these regulations, the Burnet County Flood Damage Prevention Order and the Rules of Burnet County for On-Site Sewage Facilities Regulations. Pursuant to Chapter 232.005 of the Texas Local Government Code, an offense under this provision is a Class B misdemeanor punishable by fine or imprisonment or both.

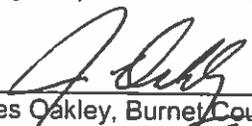
5. At the request of the Commissioners Court, the county attorney may file an action in a court of competent jurisdiction to:

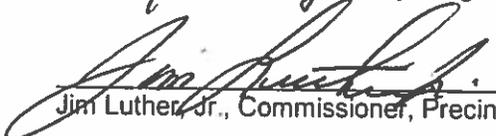
a. Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under these Regulations; and/or

b. Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted by the Commissioners Court under these Regulations.

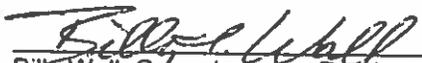
C. Variance. The Commissioners Court may authorize a variance from the Subdivision Regulations when, in its opinion, undue hardship will result from requiring strict compliance. In approving a variance, the Commissioners Court shall prescribe only conditions that it deems necessary or desirable to the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

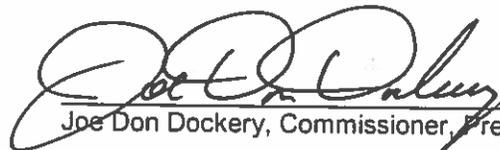
This Order regulating the development of subdivisions within the unincorporated area of Burnet County is hereby adopted this the 12th day of March, 2019.

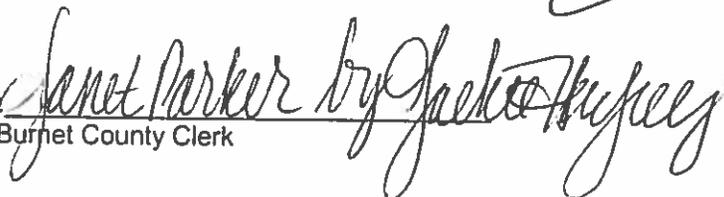
  
James Oakley, Burnet County Judge

  
Jim Luther, Jr., Commissioner, Precinct 1

  
Damon Beierle, Commissioner, Precinct 2

  
Billy Wall, Commissioner, Precinct 3

  
Joe Don Dockery, Commissioner, Precinct 4

Attest:   
Burnet County Clerk

## APPENDIX A - DEFINITIONS

- A. **Applicant** refers to an Owner or its authorized representative submitting an application and seeking approval of a proposed Subdivision pursuant to these Regulations.
- B. **AASHTO** means the American Association of State Highway and Transportation Officials.
- C. **Commissioners Court** refers to the Commissioners Court of Burnet County.
- D. **County** refers to Burnet County, Texas.
- E. **Development Services Department** is the county department established by the commissioner's court which, among other functions, administers the county subdivision process including but not limited to OSSF, floodplain development, permitting, 911 addressing and mapping.
- F. **Engineer** is a licensed engineer, as authorized by the State Statutes to practice the profession of engineering.
- G. **Final Plat** refers to a map of a proposed Subdivision of land prepared as described in these rules and in a form suitable for filing of record with all necessary survey drawings, notes, information, affidavits, dedications and acceptances as required by these Regulations.
- H. **Flag Lot** is a lot consisting of a stem which is typically long and narrow and connects the larger area with a public road and a flag section area which is typically a larger area where land development occurs. As provided for in Chapter 251 of the Texas Transportation Code and in other state laws the county has the general authority and responsibility for road and drainage maintenance and safety. Minimum driveway spacing is one critical component of both public safety and road and drainage maintenance. Therefore, flag lots are generally not permitted, except if approved by the Commissioners Court as consistent with the intent and spirit of these regulations. The Development Services Director or his designee shall advise the Commissioners Court if a proposed lot constitutes a "flag lot" and the Commissioners Court shall, in reviewing all the circumstances, make a final determination as part of the subdivision process.
- I. **Floodplain** is based on the Burnet County Flood Damage Prevention Order and the current Flood Insurance Rate Maps for the unincorporated areas of Burnet County; the area adjacent to a stream or watercourse which, on average, has a one percent chance of being inundated by flood water in any given year.
- J. **Lot** refers to a physically undivided tract or parcel of land having frontage on or adjacent to a public or private street or roadway and which is, or in the future may be offered for sale, conveyance, transfer, or improvement; which, is designated as a distinct and separate tract, and which is identified by a tract, lot number, symbol, or metes and bounds, whether in a duly approved subdivision plat which has been properly recorded or not.
- K. **Main Artery, Street or Road** refers to a traffic artery of minimum 50 feet right of way acting as a principal connecting street with a county road, state or federal highway, with the consent and permission of the federal or state highway department. Any portion of a lot used for access must be a minimum of 50 feet in width.

- L. **Model Subdivision Regulations** are those regulations set forth by Chapter 16.350 and 16.343 of the Texas Water Code and further codified by Title 31, Chapter 364 of the Texas Administrative Code.
- M. **Owner** refers to the owner of the land subject to the proposed Subdivision, including a person or entity constituting an owner and subdivider of land who divides a tract of land into two or more parts, as defined by Section 232.001 of the Texas Local Government Code, as now in effect or hereafter amended.
- N. **Permit** means a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, ordinance, that a person must obtain to perform an action or initiate, continue, or complete a project for which a permit is sought.
- O. **Project** means an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.
- P. **Plat** refers to the map, drawing, or chart on which subdivider's plan of a subdivision is presented, which he submits for approval, and all copies of it, including all components described by Chapter 232 of the Texas Local Government Code, as now in effect or hereafter amended.
- Q. **Preliminary Plat** refers to a plat of a subdivision which is under review by the Burnet County Commissioners Court in accordance with the requirements of these regulations and which has been filed with the Development Services Department.
- R. **Private Street/Road** refers to any right-of-way not dedicated to the public and restricted to the use of certain property owners and their needs.
- S. **Private Subdivision** refers to any subdivision with no dedications to the public and restricted to the use of certain property owners and their needs.
- T. **Public Maintained Street/Road** refers to any public right-of-way owned or, controlled by a city, the county, or state and maintained by same for use of vehicular traffic. This definition does not include streets dedicated to the public use and not accepted for maintenance by the aforesaid governmental entities.
- U. **Public Street/Road** refers to any right-of-way dedicated to the public use and not owned, controlled or accepted for maintenance by a city, the county or state.
- V. **Regulations** refers to the Burnet County Subdivision and Development Regulations.
- W. **Secondary Streets and Roads** refers to minor streets or roads which principally provide access to abutting property, other than arterial roads and alleys.
- X. **Subdivider, Developer or Owner** are synonymous and are used to include any person, partnership, firm, association, corporation (or combination thereof), or any officer, agent, employee, servant, or trustee thereof, who performs, or participates in the performance of, an act toward the subdivision of land within the intent, scope and purview of this Order.
- Y. **Subdivision** means a division of land situated within Burnet County and outside the corporate limits of any municipality, 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.
4. A division of tracts under Subsection P 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 deed, by using a contract of sale or other executory contract to convey or by using any other method, including a condominium or multi-family scheme.

Subdivision also includes a division of land or subdivision as described in Chapter 232 of the Texas Local Government Code, as now in effect or hereafter amended.

- Z. **Surveyor** is a licensed State Land Surveyor or Registered Public Surveyor, as authorized by the State Statutes to practice the profession of surveying.
- AA. **Utility Easement** means an interest in land granted to the county, to the public generally, and/or to a private utility corporation, for installing utilities across, over or under private or public land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

**APPENDIX B  
SUMMARY OF BURNET COUNTY ROAD STANDARDS**

Average Daily Traffic (one-way trips)**	0-1000	1001-2500	2501-5000	5001-15000
Functional Classification	Local Street	Minor Collector	Major Collector	Minor Arterial
Design Speed	25 mph	35 mph	45 mph	55 mph
Number of Lanes	2	2	2	4
ROW Width	50'	60'	70'	100'
Width of Traveled Way	20'	22'	24'	48'
Width of Shoulders	4'	5'	6'	8'
Minimum Centerline Radius	175'	375'	675'	975'
Minimum Tangent Length between Reverse Curves Or Compound Curves	75'	150'	300'	500'
Minimum Radius for Edge of Pavement At intersections	25'	25'	25'	25'
Intersecting Street Angle	80-100	80-100	80-100	80-100
Maximum Grade *	11%	10%	9%	8%
Minimum Street Centerline Offset at Adjacent Intersections	125'	125'	125'	125'
Minimum Stopping Sight Distance	175'	250'	350'	550'
Minimum Intersection Sight Distance	250'	350'	450'	550'
Steepest Ditch Foreslope Grade	3:1	4:1	4:1	5:1
Flood Design (year event)	10	15	25	25

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

**APPENDIX C  
Development Fees**

The following are a list of development fees for Burnet County. These fees are subject to change.

Preliminary Plat without a designated floodplain:	\$300 + \$10 per lot
Preliminary Plat with a designated floodplain:	\$500 + \$10 per lot
Final Plat:	\$100 + \$5 per lot
Variance request:	\$100 per request type *(without a legal opinion)
Replat:	\$100

This fee schedule has been reviewed and approved by the Commissioner's County of Burnet County, Texas this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
County Judge

Attest: \_\_\_\_\_

County Clerk

Additional fees shall be required by the Burnet County Clerk's Office for the filing of the plat in the Official Public Records of Burnet County upon final approval by the Burnet County Commissioners Court.

There shall be a \$200 fee for any plat that does not have an electronic copy compatible with the Burnet County base map. It is recommended that you meet with the GIS/Technology Coordinator prior to filing to assure the data being submitted is compatible.

\*Costs incurred for any outside legal opinion(s) shall be reimbursed to Burnet County by the developer.

**APPENDIX D**  
**FLOOD DAMAGE PREVENTION ORDER**

**BURNET COUNTY  
FLOOD DAMAGE PREVENTION ORDER**

**ARTICLE I**

**STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**

**SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Commissioners Court of Burnet County, Texas does ordain as follows:

**SECTION B. FINDINGS OF FACT**

(1) The flood hazard areas of Burnet County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

**SECTION C. STATEMENT OF PURPOSE**

It is the purpose of this order to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential buyers are notified that property is in a flood area.

#### **SECTION D. METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this order uses the following methods:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.

## ARTICLE 2

### DEFINITIONS

Unless specifically defined below, words or phrases used in this order shall be interpreted to give them the meaning they have in common usage and to give this order its most reasonable application.

**ALLUVIAL FAN FLOODING** - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**APEX** - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**APPURTENANT STRUCTURE** – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

**AREA OF FUTURE CONDITIONS FLOOD HAZARD** – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

**AREA OF SHALLOW FLOODING** - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

**BASE FLOOD** - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE)** – The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

**BASEMENT** - means any area of the building having its floor subgrade (below ground level) on all sides.

**BREAKAWAY WALL** – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**CRITICAL FEATURE** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**DEVELOPMENT** - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**EXISTING CONSTRUCTION** - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD ELEVATION STUDY** – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**FLOOD INSURANCE RATE MAP (FIRM)** - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** – see *Flood Elevation Study*

**FLOODPLAIN OR FLOOD-PRONE AREA** - means any land area susceptible to being inundated by water from any source (see definition of flooding).

**FLOODPLAIN MANAGEMENT** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS** - means zoning orders, subdivision regulations, building codes, health regulations, special purpose orders (such as a floodplain order, grading order and erosion control order) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOOD PROTECTION SYSTEM** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the

extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** – see *Regulatory Floodway*

**FUNCTIONALLY DEPENDENT USE** - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior or;

(b) Directly by the Secretary of the Interior in states without approved programs.

**LEVEE** - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**LEVEE SYSTEM** - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST FLOOR** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**MANUFACTURED HOME** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for

which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**RECREATIONAL VEHICLE** - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOODWAY** - means 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 designated height.

**REPETITIVE LOSS** – means flood related damages sustained by a structure on 2 occasions during a ten year period for which the cost of repair, at the time of each flood event, is on average greater than or equal to 25% of the market value of the structure before the flood occurred.

**RIVERINE** – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**SPECIAL FLOOD HAZARD AREA** – see *Area of Special Flood Hazard*

**START OF CONSTRUCTION** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such

as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**VARIANCE** – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

**VIOLATION** - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### **ARTICLE 3**

#### **GENERAL PROVISIONS**

##### **SECTION A. LANDS TO WHICH THIS ORDER APPLIES**

The order shall apply to all areas of special flood hazard with the jurisdiction of Burnet County.

##### **SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Burnet County, Texas and Incorporated areas", dated November 1, 2019, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated November 1, 2019 and any revisions thereto are hereby adopted by reference and declared to be a part of this order.

##### **SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this order.

##### **SECTION D. COMPLIANCE**

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this order and other applicable regulations.

##### **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

This order is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this order and another order, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**SECTION F. INTERPRETATION**

In the interpretation and application of this order, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

**SECTION G. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this order is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This order does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This order shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this order or any administrative decision lawfully made hereunder.

**ARTICLE 4**

**ADMINISTRATION**

**SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The Floodplain Administrator is appointed by the Burnet County Commissioners Court to administer and implement the provisions of this order and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

**SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this order.

(2) Review permit applications to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this order.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.

(9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that

the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community **first** completes all of the provisions required by Section 65.12.

### **SECTION C. PERMIT PROCEDURES**

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by Burnet County and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);

(d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(e) Maintain a record of all such information in accordance with Article 4, Section (B)(1);

(2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this order and the following relevant factors:

(a) The danger to life and property due to flooding or erosion damage;

(b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(c) The danger that materials may be swept onto other lands to the injury of others;

(d) The compatibility of the proposed use with existing and anticipated development;

(e) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(h) The necessity to the facility of a waterfront location, where applicable;

(i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

#### **SECTION D. VARIANCE PROCEDURES**

(1) The Burnet County Commissioners Court, as established by the community, shall hear and render judgment on requests for variances from the requirements of this order.

(2) The Burnet County Commissioners Court shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this order.

(3) Any person or persons aggrieved by the decision of the Burnet County Commissioners Court may appeal such decision in the courts of competent jurisdiction.

(4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this order.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this order, the Burnet County Commissioners Court may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this order (Article 1, Section C).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[10) Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or orders.

(c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## **ARTICLE 5**

### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **SECTION A. GENERAL STANDARDS**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions

of flooding, 1 foot above the base flood elevation in an AE Zone and 2 feet above the base flood elevations in A Zones;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

## **SECTION B. SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

(1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to a minimum of one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.

(2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to a minimum of one foot above the base flood elevation or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than 1 foot above grade or the floor of the enclosed area.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) **Manufactured Homes** -

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

(i) the lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

### **SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS**

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this order.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this order.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this order.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

**SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)**

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

(2) All new construction and substantial improvements of **non-residential** structures;

(a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

(b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C are satisfied.

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

### **SECTION E. FLOODWAYS**

Floodways - located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

(3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12.

### **SECTION F. SEVERABILITY**

If any section, clause, sentence, or phrase of this Order is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Order.

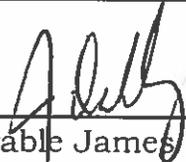
### **SECTION G. PENALTIES FOR NON-COMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to

comply with any of its requirements shall upon conviction thereof be fined not more than \$500 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Burnet County from taking such other lawful action as is necessary to prevent or remedy any violation.

**SECTION H. CERTIFICATION OF ADOPTION**

**APPROVED:** \_\_\_\_\_

  
Honorable James Oakley, Burnet County Judge

**PASSED: October 8, 2019**

**ORDER BECOMES EFFECTIVE: October 8, 2019**

I, the undersigned, Janet Parker, Burnet County Clerk, do hereby certify that the above is a true and correct copy of an order duly adopted by the Burnet County Commissioners Court, at a regular meeting duly convened on October 8, 2019.

*Janet Parker*  
Janet Parker, Burnet County Clerk

{SEAL}



**APPENDIX E**  
**ON-SITE SEWAGE FACILITY ORDER**

COUNTY OF BURNET

§

STATE OF TEXAS

§

AFFIDAVIT

Before me, the undersigned authority, personally appeared who, being by me duly sworn, deposed as follows:

My name is Janet Parker, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of the records of the County Clerk's Office for the County of Burnet, Texas. Attached hereto are four (4) pages of records known as "The On-site Sewage Facility Order for Burnet County". The records are kept by me as County Clerk, County of Burnet, in the regular course of business with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The record attached hereto is the original or exact duplicate of the official record.

---

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Janet Parker, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein expressed.

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

(SEAL)

---

Notary/Public, State of Texas  
My commission expires:

ORDER ADOPTING RULES OF BURNET COUNTY, TEXAS  
FOR ON-SITE SEWAGE FACILITIES  
PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality has established Rules for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction in order to abate or prevent pollution or injury to public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of Burnet County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Burnet, Texas; and

WHEREAS, the Commissioners Court of Burnet County, Texas finds that the use of on-site sewage facilities in Burnet County, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Commissioners Court of Burnet County, Texas has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Burnet County, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF BURNET COUNTY, TEXAS:

SECTION 1. THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

SECTION 2. THAT the use of on-site sewage facilities in Burnet County, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Order for Burnet County, Texas be adopted entitled "On-Site Sewage Facilities", which shall read as follows:

## AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

### SECTION 4. CONFLICTS.

This Order repeals and replaces any other On-site Sewage Facility order for Burnet County.

### SECTION 5. CHAPTER 366.

The County of Burnet, Texas clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will fully enforce Chapter 366 of the Texas Health and Safety Code (H&SC) and Chapters 7 and 37 of the Texas Water Code (TWC), and associated rules referenced in Section 8 of this Order.

### SECTION 6. AREA OF JURISDICTION.

(A) The Rules shall apply to all the area lying in Burnet County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

(B) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Burnet County, Texas.

### SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Burnet County, Texas must comply with the Rules adopted in Section 8 of this Order.

### SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 285 and Chapter 30, attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities are hereby adopted, and all officials and employees of Burnet County, Texas having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

### SECTION 9. INCORPORATION BY REFERENCE.

The Rules, 30 TAC Chapters 30 and 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current Rules are attached to these Rules as Appendix I.

## SECTION 10. AMENDMENTS.

The County of Burnet, Texas wishing to adopt more stringent Rules for its On-Site Sewage Facility Order understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirement. Listed below are the more stringent Rules adopted by Burnet County, Texas:

(A) Burnet County will permit and inspect all on-site systems regardless of the size of the tract of land the on-site system is situated upon. With the rapid development of property occurring in the county and the abundance of streams, creeks and ponds, it is in the best interest for public health to ensure permitting and inspection of all on-site systems.

(B) Burnet County will not allow any overlapping spray area on surface irrigation applications without engineering design and confirmation at the time of inspection that the daily application rate is equal to or less than .064 gallons per square foot per day. This will prevent exceeding the specified application rate.

(C) Burnet County has adopted a daily flow rate of 100 gallons per unit per day for proposed Recreational Vehicle (RV) park on-site sewage facility design. There have been a number of RV parks established in the county in recent years that are being used as permanent residential units. The RVs are equipped with full kitchen facilities, laundry and bath fixtures and are being used as full time residences therefore a flow rate of 100 gallons per day per space will be required for the on-site septic design.

## SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Burnet County, Texas, must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

## SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Burnet County, Texas.

## SECTION 13. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Burnet County, Texas.

## SECTION 14. PENALTIES.

This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285.

## SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Burnet County, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of this Order should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such

unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order, since the same would have been enacted by the Commissioners Court without incorporation in this Order of such unconstitutional phrases, clause, sentence, paragraph, or section.

SECTION 16. EFFECTIVE DATE.

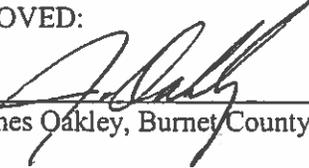
This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the Texas Commission on Environmental Quality.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 12<sup>th</sup> DAY OF MARCH, 2019.

APPROVED:

(SEAL)

  
\_\_\_\_\_  
James Oakley, Burnet County Judge

ATTEST:

  
\_\_\_\_\_  
Janet Parker, County Clerk

**APPENDIX F**

**MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS**

**Appendix F**  
**DIVISION OF LAND FOR MANUFACTURED HOME RENTAL COMMUNITY**

**DIVISION 1. GENERAL AND ADMINISTRATIVE PROVISIONS**

**1.1 Applicability.** In accordance with Local Government Code §232.007, no formal plat shall be required for a manufactured home rental community. For the purposes of these Rules, a "manufactured home rental community" (MHRC) means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than sixty (60) months without a purchase option, exclusively for the installation of manufactured homes for use and occupancy as residences.

**1.2 General Requirements.** The developer, owner or owners of a tract of land proposed to be developed as a MHRC shall prepare an Infrastructure Development Plan (IDP) and associated Engineering Report prepared by a professional engineer registered in the State of Texas to be submitted to the Burnet County Environmental Services Department. Review and approval of the MHRC IDP shall be timely and in accordance with Section 3.3 below.

**DIVISION 2 - MINIMUM STANDARDS**

**2.1 MHRC IDP Design Standards.** Development of the MHRC IDP shall include, at a minimum, the following design standards:

2.1.1 **Streets.** There shall be a minimum sixty (60) feet fronting a street or roadway which has been previously dedicated to the public for the public's use and benefit as a street or roadway. Access roads to the individual rental spaces must be constructed and paved to a minimum width of twenty (20) feet. The pavement structure shall include:

- (a) One and one-half inches (1-1/2 in) thick hot mix asphaltic concrete (HMAC) paved surface, eight inches (8 in) thick crushed stone base; or
- (b) A "double asphalt or emulsion surface treatment" per Article 3 of the Burnet County Subdivision Regulations or alternative pavement structure as designed by a professional engineer registered in the State of Texas and approved by the respective precinct commissioner.

2.1.2 **Rental Space.** No space may contain more than one (1) single family residential unit. Each space shall have separate and individual access; no common driveways will be allowed.

2.1.3 **Emergency Access.** Layout and design of access roadways shall accommodate fire and emergency vehicles.

2.1.4 **Traffic Control Devices.** All traffic control (signing, markings, etc.) shall be prepared by a professional engineer registered in the State of Texas, and shall be in accordance with the Texas Manual on Uniform Traffic Control Devices.

2.1.5 **Drainage.** An adequate drainage plan shall be designed and prepared by a professional engineer registered in the State of Texas, including the design of drainage facilities, culverts, and/or systems using a minimum ten (10) year storm frequency (unless otherwise directed by the Burnet County Commissioners Court), such that the drainage out of the MHRC does not have a negative drainage impact on neighboring properties.

2.1.6 **County Road Right of Way.** If the MHRC is adjacent to a County road, and if additional right-of-way is required for an existing County road for drainage and access as determined by the precinct commissioner, the owner shall dedicate these rights-of-way to the County.

2.1.7 **Water and Wastewater.** All water and wastewater design shall be prepared by a professional engineer registered in the State of Texas, and shall be in accordance with industry standards and the Texas Commission on Environmental Quality.

### **DIVISION 3 - STANDARD SUBMISSION AND REVIEW PROCEDURES**

**3.1 MHRC IDP Submittal Package Requirements.** The MHRC IDP shall include the following minimum requirements.

3.1.1 **MHRC IDP Preliminary Submittals.** Preliminary submittals shall include the following:

- (a) A survey of the property shall be submitted to the Burnet County Environmental Services Department prior to the request by the owner or occupier of the lot for any permit and/or utility services.
- (b) The owner shall submit a letter of application, signed by the owner that stipulates the intention of the owner; name, address, phone number of the owner; names of water and electricity providers; and name of wastewater provider or type and usage of on-site sewerage facility.

3.1.2 **MHRC IDP Layouts.** The drawings associated with the MHRC IDP shall include, at a minimum, the following:

- (a) The drawings shall be on eighteen (18) inches x twenty-four (24) inches plan sheets at a maximum scale of one (1) inch = one hundred (100) feet.
- (b) If more than two (2) sheets are needed, an index of sheets shall be provided on the first sheet.
- (c) Names, locations, dimensions (bearings and distances), and layouts of existing and proposed streets, alleys, easements, and other public rights-of-way and public / private encumbrances (deed restrictions, etc.) on the property and any proposed street right-of-way, easement, alley, park, or other public dedication.
- (d) Dimensions, bearings and distances, of the proposed rental spaces.
- (e) Signatures and date of approval and certifications as required under these Rules. These approval signatures shall be not more than six (6) months prior to the submission.
- (d) Legal description, acreage, and name of the proposed MHRC. The proposed MHRC's name shall not be spelled or pronounced similarly to the name of any existing MHRC or subdivision located within Burnet County.

- (g) The boundary of the MHRC shall be indicated by a heavy line and described by bearings and distances.
- (h) The scale, legend, north arrow, spot elevations on one hundred (100) feet or an appropriate grid, with two (2.0) foot contour lines. Alternate contour intervals may be submitted, based on terrain, with approval from the Burnet County Environmental Services Department.
- (i) Deed record, name of owner, volume and page number of adjoining properties.
- (j) Dates of survey and preparation of MHRC IDP.
- (k) Identification code, location, description, and elevation of USGS or appropriate benchmark used in the survey.
- (l) Front building setback lines; back and side building setback lines by note.
- (m) Location of any City's corporate limit line or ETJ line.
- (n) Vicinity map with streets, ditches, general drainage flow directions to the ultimate outfall, city limits and ETJ's, and other major land features.
- (o) Net area (gross area less easements) of rental spaces to the nearest one hundredth (1/100th) of an acre for lots using OSSF and I or well water.
- (p) Limits of flood hazard areas as defined by the appropriate FEMA FIRM panel and the proposed finished floor elevation of buildings within these flood hazard areas on each space.
- (q) A certification by a surveyor or engineer describing any area of the MHRC that is in a flood plain or stating that no area is in a flood plain, as delineated by the appropriate FEMA FIRM panel and date.
- (r) A surveyor's signature and seal on the MHRC IDP for certification.
- (s) The description of the water and sewer facilities, electricity and gas utilities, and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to serve the MHRC and a statement of the date by which the facilities will be fully operable, prepared by an engineer (may be included in an attached document). A certification must be included that the water and sewer facilities described by the MHRC IDP, or document attached to the MHRC IDP, are in compliance with these Rules.
- (t) Approvals by other regulatory and governing bodies, as required

**3.1.3 MHRC IDP Attachments.** The MHRC IDP submittal shall also include the following documents:

- (a) Letters signed and dated from water, wastewater, and electric utilities of service commitment and availability and statement of approval of existing and proposed utility easements.
- (b) A tax certificate showing that all taxes currently due with respect to the original tract have been paid.
- (c) Results of a soils analysis certified by a qualified site evaluator (as defined by 30 TAC Chapter 285) for on-site sewage facilities.
- (d) Engineering plans, specifications and estimates for construction of proposed water and wastewater facilities.
- (e) Engineering plans, specifications and estimates for construction of roadway access to each rental space for fire and emergency vehicles.
- (f) Engineering plans, specifications and estimates for construction of proposed street improvements and associated traffic control and signing.

- (g) Engineering plans, specifications and estimates for construction of adequate drainage off of the rental spaces to drainage channels and out of the MHRC, including the design and construction of drainage facilities, culverts, and/or systems using a ten (10) year storm frequency, such that the drainage out of the MHRC does not have a negative drainage impact on neighboring properties.
- (h) An Engineering Report, as described in Section 3.2 below.
- (i) An electronic copy of the layout of the lots and streets (to scale and with state plane coordinates) within the MHRC shall be submitted to the 911 coordinator for incorporation into the County-wide map.

**3.2 MHRC Engineering Report Submittal Package Requirements.** The MHRC Engineering Report shall be signed, dated, and sealed by a professional engineer registered in the State of Texas, and shall contain detailed and definitive information on the following:

### 3.2.1 Water Supply

- (a) **Water Supply - Public Water Systems.** If the water supplier is a political subdivision of the state: a city, municipality, utility district, water control and improvement district, nonprofit water supply corporation, etc., the developer, owner or owners shall furnish a signed letter of service availability from the water supplier to provide the State's minimum requirements of quality and quantity of water to the proposed MHRC.

Where there is no existing facility or owner intending to construct and maintain the proposed water supply facilities, the developer, owner or owners may establish an investor-owned utility or create a municipal utility district and obtain a Certificate of Convenience and Necessity (CCN) from the Texas Commission on Environmental Quality and include evidence of the CCN issuance for the MHRC. Prior to IDP approval, plans and specifications for the construction of the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed MHRC and facilities, including the Texas Commission on Environmental Quality.

Water service must be extended into the MHRC to each lot or rental space if the existing water lines are located within three hundred (300) feet of the MHRC and if there is sufficient water available by the water supplier.

- (b) **Water Supply - Private Wells or Non-Public Water Systems.** Quantitative and qualitative results of sampling test wells in accordance with requirements promulgated by the Texas Commission on Environmental Quality, the Texas Department of Health and the Central Texas Underground Water Conservation District shall be included where individual wells are proposed for the supply of drinking water to residences and other establishments. The results of the analyses shall be made available to the prospective property owners or renters.
- (c) **Water Supply - Other Approvals.** Prior to IDP approval, plans and specifications for the construction of the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed MHRC, including the Texas Commission on

Environmental Quality. Evidence of the approvals shall be included in the MHRC Engineering Report.

### 3.2.2 Wastewater Disposal Facilities

- (a) **Wastewater Disposal Facilities - Centralized Sewerage Facilities.** If wastewater treatment is provided by a political subdivision of the State: city, municipality, utility district, water control and improvement district, nonprofit water supply corporation or an existing investor-owned water supply corporation, etc., the developer, owner or owners shall furnish a signed letter of service availability to provide the State's minimum wastewater treatment standard for the proposed MHRC from the utility. Where there is no existing entity or owner to build or maintain the proposed wastewater treatment and collection facilities, the developer, owner or owners may establish an investor-owned utility or a municipal utility district by obtaining a CCN from the Texas Commission on Environmental Quality. Prior to IDP approval, an appropriate permit to treat and/or dispose of wastes for the ultimate build-out of the MHRC shall have been obtained from the Texas Commission on Environmental Quality and plans and specifications for the construction of the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed MHRC, including the Texas Commission on Environmental Quality. Evidence of the approvals shall be included in the MHRC Engineering Report. Wastewater disposal service must be extended into the development to each lot or rental space if the existing wastewater lines are within two hundred (200) feet of the MHRC and there is sufficient wastewater capacity available from the wastewater service provider.
- (b) **Wastewater Disposal Facilities - On-site Sewerage Facilities.** A soil analysis shall be prepared with results as required under the Burnet County Regulations for On-Site Sewage Facilities and the rules of the Texas Commission on Environmental Quality governing the use of on-site sewerage facilities.

3.2.3 **Streets and Roadways.** The MHRC Engineering Report shall include a description of the streets and roadways within the MHRC, and include information on the roadway cross section, pavement width and thickness, base thickness, subgrade treatment, material specifications, and other information as required in these Rules.

3.2.4 **Traffic Control Devices Plan.** A traffic control devices plan for the streets to be constructed, if any, is to be included in the IDP.

3.2.5 **Drainage.** The MHRC Engineering Report shall include information regarding drainage, culverts, conveyances, outfalls, and other information as required to properly convey storm water within and away from the MHRC.

### **3.3 Timely Approval of MHRC IDP.** The MHRC IDP approval timeline is summarized as follows:

- (a) If an application submission for a MHRC IDP is incomplete, the Burnet County Environmental Services Department, not later than the tenth (10th) business day from receiving the MHRC IDP application submission, shall notify the applicant of the missing documents or information. No further action will be taken on the application until all

- documentation or other information contained in the notice is submitted to the Burnet County Environmental Services Department.
- (b) Acceptance by the Burnet County Environmental Services Department of a complete MHRC IDP application shall not be construed as approval of the application or the information or documentation contained therein.
  - (c) Except as noted in (e) below, the Burnet County Commissioners Court shall take final action on a MHRC IDP application, including the resolution of all appeals, not later than the sixtieth (60th) day after receiving a complete MHRC IDP application submission. (An application submission is considered complete when it contains all information required by these Rules.)
  - (d) If the Burnet County Environmental Services Department or the Burnet County Commissioners Court disapproves an application submission for a MHRC IDP, the applicant shall be given a complete list of reasons for disapproval.
  - (e) The sixty (60) day period under (c) above:
    - (1) May be extended for a reasonable period, if agreed to in writing by the applicant and approved by the Burnet County Environmental Services Department or the Burnet County Commissioners Court.
    - (2) May be extended sixty (60) additional days if Chapter 2007, Government Code, requires the County to perform a takings impact assessment in connection with the MHRC IDP application; and,
    - (3) Applies only to a decision wholly within the control of the Burnet County Environmental Services Department or the Burnet County Commissioners Court.
  - (f) The Burnet County Environmental Services Department or the Burnet County Commissioners Court shall make the decision under (e)(2) of whether the sixty (60) day period will be extended not later than the twentieth (20th) day after the date a completed MHRC IDP application is received by the Burnet County Environmental Services Department.
  - (g) If the Burnet County Environmental Services Department or the Burnet County Commissioners Court fails to take final action on the MHRC IDP as required in (c) above:
    - (1) The Burnet County Commissioners Court shall refund the greater of the unexpended portion of any MHRC IDP application fee or deposit or fifty (50) percent of a MHRC IDP application fee or deposit that has been paid;
    - (2) The MHRC IDP 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 Burnet County Commissioners Court to issue documents recognizing the MHRC ID's approval.

### **3.4 Construction and Inspection of MHRC Improvements.**

**3.4.1 Construction of Improvements.** Construction of a proposed MHRC may not begin before the date the Burnet County Commissioners Court approves the MHRC IDP.

**3.4.2 Inspection of Improvements.** The Burnet County Environmental Services Department reserves the right to perform periodic and final inspection of improvements. If the Burnet County

Environmental Services Department directs that a final inspection is required, it must be completed not later than the second (2<sup>nd</sup>) business day after the date the Burnet County Environmental Services Department receives a written confirmation from the owner that the construction of the MHRC infrastructure is complete. If the inspector determines that the infrastructure improvements comply with the MHRC IDP, then the Burnet County Environmental Services Department shall issue a Certificate of Compliance not later than the fifth (5<sup>th</sup>) business day after the date the Burnet County Environmental Services Department receives written confirmation from the owner that the infrastructure has been completed and in compliance with the MHRC IDP.

**3.4.3 Utilities.** A utility owner shall not provide utility services, including water, sewer, gas and electric services, to a MHRC subject to an IDP or to a manufactured home in the community unless the owner provides the utility with a copy of the Certificate of Compliance issued by the Burnet County Environmental Services Department. This requirement applies to:

- (a) A municipality that provides utility services;
- (b) A municipally owned or municipally-operated utility that provides utility services;
- (c) A public utility that provides utility services;
- (d) A nonprofit water supply or sewer service corporation organized and operating under the Texas Water Code, Chapter 67 that provides utility services;
- (e) A county that provides utility services; and
- (f) A special district or authority created by State law that provides utility services.

**Responsibility for Costs.** The developer, owner or owners of the MHRC shall be responsible for costs of improvements as required by these Rules.

**APPENDIX G**  
**GROUNDWATER AVAILABILITY CERTIFICATION FOR**  
**PLATTING**

## APPENDIX G

### Groundwater Availability Certification for Platting

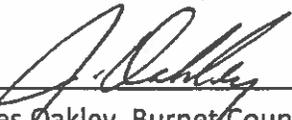
Pursuant to 232.0032 of the Texas Local Government Code, if the source of the water supply intended for the subdivision is groundwater under that land, the plat application shall have attached to it a statement that:

1. Is prepared for the plat applicant by an engineer or geoscientist licensed to practice in the State of Texas.
2. Certifies that adequate groundwater is available for the subdivision.

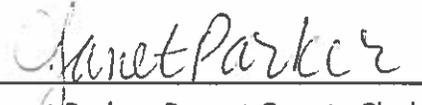
The form and content of this certification shall be in compliance with all applicable rules of the Texas Commission on Environmental Quality (TCEQ), including 30 Texas Administrative Code, Chapter 230. The plat applicant also shall transmit to the Texas Water Development Board (TWDB) and the Central Texas Groundwater Conservation District (CTGCD) information required by 30 Texas Administrative Code, Chapter 230. Prior to the approval, if any, of the plat by the Burnet County Commissioners Court, the plat applicant shall confirm and verify in writing to the Burnet County Commissioners Court, using the TCEQ form, that all required information has been transmitted to the TWDB and the CTGCD.

Developers are encouraged to enter into an agreement with the Central Texas Groundwater Conservation District to maintain selected monitor well sites for long term data collection of static well levels to track regional water level trends. The test and monitor well should contain a one inch access port to facilitate possible future water level monitoring.

ADOPTED this 12<sup>th</sup> day of March, 2019.

  
James Oakley, Burnet County Judge

Attest:

  
Janet Parker, Burnet County Clerk



**GROUNDWATER AVAILABILITY CERTIFICATION FOR PLATTING**

**§§230.1 - 230.11**

**Effective July 31, 2008**

**§230.1. Applicability.**

(a) Subdivisions utilizing groundwater as the source of water supply. In the plat application and approval process, municipal and county authorities may require certification that adequate groundwater is available for a proposed subdivision if groundwater under that land is to be the source of water supply. The municipal or county authority is not required to exercise their authority under Texas Local Government Code, §212.0101 or §232.0032. However, if they do exercise their authority, the form and content of this chapter must be used.

(b) Use of this chapter. If required by the municipal or county authority, the plat applicant and the Texas licensed professional engineer or the Texas licensed professional geoscientist shall use this chapter and the attached form to certify that adequate groundwater is available under the land of a subdivision subject to platting under Texas Local Government Code, §212.004 and §232.001. These rules do not replace other state and federal requirements applicable to public drinking water supply systems. These rules do not replace the authority of counties within designated priority groundwater management areas under Texas Water Code, §35.019, or the authority of groundwater conservation districts under Texas Water Code, Chapter 36.

(c) Transmittal of data. If use of this chapter is required by the municipal or county authority, the plat applicant shall:

(1) provide copies of the information, estimates, data, calculations, determinations, statements, and certification required by §230.8 of this title (relating to Obtaining Site-Specific Groundwater Data), §230.9 of this title (relating to Determination of Groundwater Quality), §230.10 of this title (relating to Determination of Groundwater Availability), and §230.11 of this title (relating to Groundwater Availability and Usability Statements and Certification) to the executive administrator of the Texas Water Development Board and to the applicable groundwater conservation district or districts; and

(2) using the attached form, attest that copies of the information, estimates, data, calculations, determinations, statements, and the certification have been provided to the executive administrator of the Texas Water Development Board and the applicable groundwater conservation district or districts. The executive director may make minor changes to this form that do not conflict with the requirements of these rules.

**TRANSMITTAL OF DATA**

Use of this form: If required by a municipal authority pursuant to Texas Local Government Code, §212.0101, or a county authority pursuant to Texas Local Government Code, §232.0032 the plat applicant shall use this form to attest that information has been provided in accordance with the requirements of Title 30, TAC, Chapter 230. This form shall be provided to the municipal or county authority, the executive administrator of the Texas Water Development Board, and the applicable groundwater conservation district or districts.

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

Property Owner's Name(s): \_\_\_\_\_

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

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

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

Plat Applicant's Name: \_\_\_\_\_

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

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

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

I, \_\_\_\_\_, the Plat Applicant, attest that the following information has been provided in accordance with Title 30, TAC, Chapter 230.

Has the Certification of Groundwater Availability for Platting Form (Figure: 30 TAC §230.3(c)) been provided to the:	(Please Circle One)	
1. Municipal or County authority?	Yes	No
2. Executive administrator of the Texas Water Development Board?	Yes	No
3. Applicable Groundwater Conservation District or Districts?	Yes	No
Name of Groundwater Conservation District or Districts:		
Have copies of the information, estimates, data, calculations, determinations, and statements been provided to the:		
4. Executive administrator of the Texas Water Development Board?	Yes	No
5. Applicable Groundwater Conservation District or Districts?	Yes	No
Name of Groundwater Conservation District or Districts:		

Note: Mail the required information to the executive administrator of the Texas Water Development Board at the following address:

Executive Administrator  
 Texas Water Development Board  
 Groundwater Resources Division  
 P.O. Box 13231  
 Austin, Texas 78711-3231

Contact and other information for the Groundwater Conservation Districts within the state may be accessed on the following Internet pages:

[http://www.tceq.state.tx.us/permitting/water\\_supply/groundwater/districts.html](http://www.tceq.state.tx.us/permitting/water_supply/groundwater/districts.html)

<http://www.twdb.state.tx.us/GwRD/pages/gwrindex.html>

<http://www.texasgroundwater.org/index.htm>

Adopted July 9, 2008

Effective July 31, 2008

### **§230.2. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. If a word or term used in this chapter is not contained in this section, it shall have the same definition and meaning as used in the practices applicable to hydrology and aquifer testing.

(1) **Applicable groundwater conservation district or districts**--Any district or authority created under Texas Constitution, Article III, Section 52, or Article XVI, Section 59, that:

(A) has the authority to regulate the spacing of water wells, the production from water wells, or both, and

(B) which includes within its boundary any part of the plat applicant's proposed subdivision.

(2) **Aquifer**--A geologic formation, group of formations, or part of a formation that contains water in its voids or pores and may be used as a source of water supply.

(3) **Aquifer test**--A test involving the withdrawal of measured quantities of water from or addition of water to a well and the measurement of resulting changes in water level in the aquifer both during and after the period of discharge or addition for the purpose of determining the characteristics of the aquifer. For the purposes of this chapter, bail and slug tests are not considered to be aquifer tests.

(4) **Certification**--A written statement of best professional judgement or opinion as attested to on the Certification of Groundwater Availability for Platting Form contained under §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting).

(5) **Drinking water standards**--As defined in commission rules covering drinking water standards contained in Chapter 290, Subchapter F of this title (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems).

(6) **Executive administrator**--The executive administrator of the Texas Water Development Board.

(7) **Full build out**--The final expected number of residences, businesses, or other dwellings in the proposed subdivision.

(8) **Licensed professional engineer**--An engineer who maintains a current license through the Texas Board of Professional Engineers in accordance with its requirements for professional practice.

(9) **Licensed professional geoscientist**--A geoscientist who maintains a current license through the Texas Board of Professional Geoscientists in accordance with its requirements for professional practice.

(10) **Plat applicant**--The owner or the authorized representative or agent seeking approval of a proposed subdivision plat application pursuant to municipal or county authority.

(11) **Requirements applicable to public drinking water supply systems**--The requirements contained in commission rules covering public drinking water supply systems in Chapter 290, Subchapter D of this title (relating to Rules and Regulations for Public Water Systems).

Adopted July 9, 2008

Effective July 31, 2008

**§230.3. Certification of Groundwater Availability for Platting.**

(a) Certification. The certification required by this chapter must be prepared by a Texas licensed professional engineer or a Texas licensed professional geoscientist.

(b) Submission of information. The plat applicant shall provide to the municipal or county authority, the executive administrator of the Texas Water Development Board, and the applicable groundwater conservation district or districts the certification of adequacy of groundwater under the subdivision required by this chapter.

(c) Form required. This chapter and the following form shall be used and completed if plat applicants are required by the municipal or county authority to certify that adequate groundwater is available under the land to be subdivided. The executive director may make minor changes to this form that do not conflict with the requirements of these rules.

**CERTIFICATION OF GROUNDWATER AVAILABILITY FOR PLATTING FORM**

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

Administrative Information (30 TAC §230.4)

1. Name of Proposed Subdivision:

2. Any Previous Name Which Identifies the Tract of Land:
3. Property Owner's Name(s):
Address:
Phone:
Fax:
4. Plat Applicant's Name:
Address:
Phone:
Fax:
5. Licensed Professional Engineer or Geoscientist:
Name:
Address:
Phone:
Fax:
Certificate Number:
6. Location and Property Description of Proposed Subdivision:
7. Tax Assessor Parcel Number(s).
Book:
Map:
Parcel:

<b>Proposed Subdivision Information (30 TAC §230.5)</b>
8. Purpose of Proposed Subdivision (single family/multi-family residential, non-residential, commercial):
9. Size of Proposed Subdivision (acres):
10. Number of Proposed Lots:
11. Average Size of Proposed Lots (acres):
12. Anticipated Method of Water Distribution.

Expansion of Existing Public Water Supply System?	Yes	No
New (Proposed) Public Water Supply System?	Yes	No
Individual Water Wells to Serve Individual Lots?	Yes	No
Combination of Methods?	Yes	No
Description (if needed):		
13. Additional Information (if required by the municipal or county authority):		
Note: If public water supply system is anticipated, written application for service to existing water providers within a 1/2-mile radius should be attached to this form (30 TAC §230.5(f) of this title).		

Projected Water Demand Estimate (30 TAC §230.6)
14. Residential Water Demand Estimate at Full Build Out (includes both single family and multi-family residential).
Number of Proposed Housing Units (single and multi-family):
Average Number of Persons per Housing Unit:
Gallons of Water Required per Person per Day:
Water Demand per Housing Unit per Year (acre feet/year):
Total Expected Residential Water Demand per Year (acre feet/year):
15. Non-residential Water Demand Estimate at Full Build Out.
Type(s) of Non-residential Water Uses:
Water Demand per Type per Year (acre feet/year):
16. Total Water Demand Estimate at Full Build Out (acre feet/year):
17. Sources of Information Used for Demand Estimates:

General Groundwater Resource Information (30 TAC §230.7)
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18. Identify and describe, using Texas Water Development Board names, the aquifer(s) which underlies the proposed subdivision:

Note: Users may refer to the most recent State Water Plan to obtain general information pertaining to the state's aquifers. The State Water Plan is available on the Texas Water Development Board's Internet website at: [www.twdb.state.tx.us](http://www.twdb.state.tx.us)

**Obtaining Site-Specific Groundwater Data (30 TAC §230.8)**

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

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

Determination of Groundwater Quality (30 TAC §230.9)		
27. Have water quality samples been collected as required by §230.9 of this title?	Yes	No
28. Has a water quality analysis been performed which meets the requirements of §230.9 of this title?	Yes	No

Determination of Groundwater Availability (30 TAC §230.10)		
29. Have the aquifer parameters required by §230.10(c) of this title been determined?	Yes	No
30. If so, provide the aquifer parameters as determined.		
Rate of yield and drawdown:		
Specific capacity:		
Efficiency of the pumped well:		
Transmissivity:		
Coefficient of storage:		
Hydraulic conductivity:		
Were any recharge or barrier boundaries detected?	Yes	No
If yes, please describe:		
Thickness of aquifer(s):		
31. Have time-drawdown determinations been calculated as required under §230.10(d)(1) of this title?	Yes	No
32. Have distance-drawdown determinations been calculated as required under §230.10(d)(2) of this title?	Yes	No
33. Have well interference determinations been made as required under §230.10(d)(3) of this title?	Yes	No
34. Has the anticipated method of water delivery, the annual groundwater demand estimates at full build out, and geologic and groundwater information been taken into account in making these determinations?	Yes	No
35. Has the water quality analysis required under §230.9 of this title been compared to primary and secondary public drinking water standards as required under §230.10(e) of	Yes	No

this title?		
Does the concentration of any analyzed constituent exceed the standards?	Yes	No
If yes, please list the constituent(s) and concentration measure(s) which exceed standards:		

<b>Groundwater Availability and Usability Statements (30 TAC §230.11(a) and (b))</b>
36. Drawdown of the aquifer at the pumped well(s) is estimated to be _____ feet over a 10-year period and _____ feet over a 30-year period.
37. Drawdown of the aquifer at the property boundary is estimated to be _____ feet over a 10-year period and _____ feet over a 30-year period.
38. The distance from the pumped well(s) to the outer edges of the cone(s)-of-depression is estimated to be _____ feet over a 10-year period and _____ feet over a 30-year period.
39. The recommended minimum spacing limit between wells is _____ feet with a recommended well yield of _____ gallons per minute per well.
40. Available groundwater is / is not (circle one) of sufficient quality to meet the intended use of the platted subdivision.
41. The groundwater availability determination does not consider the following conditions (identify any assumptions or uncertainties that are inherent in the groundwater availability determination):

<b>Certification of Groundwater Availability (30 TAC §230.11(c))</b> Must be signed by a Texas Licensed Professional Engineer or a Texas Licensed Professional Geoscientist.
42. I, _____, Texas Licensed Professional Engineer or Texas Licensed Professional Geoscientist (circle which applies), certificate number _____, based on best professional judgment, current groundwater conditions, and the information developed and presented in this form, certify that adequate groundwater is available from the underlying aquifer(s) to supply the anticipated use of the proposed subdivision.

Date:	(affix seal)
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Adopted July 9, 2008

Effective July 31, 2008

**§230.4. Administrative Information.**

At a minimum, the following general administrative information as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting), shall be provided for a proposed subdivision for which groundwater under the land will be the source of water supply:

- (1) the name of the proposed subdivision;
- (2) any previous or other name(s) which identifies the tract of land;
- (3) the name, address, phone number, and facsimile number of the property owner or owners;
- (4) the name, address, phone number, and facsimile number of the person submitting the plat application;
- (5) the name, address, phone number, facsimile number, and registration number of the licensed professional engineer or the licensed professional geoscientist preparing the certification as required in this chapter;
- (6) the location and property description of the proposed subdivision; and
- (7) the tax assessor parcel number(s) by book, map, and parcel.

Adopted January 23, 2003

Effective February 13, 2003

**§230.5. Proposed Subdivision Information.**

At a minimum, the following information pertaining to the proposed subdivision shall be provided as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting):

(1) the purpose of the proposed subdivision, for example, single family residential, multi-family residential, non-residential, commercial, or industrial;

(2) the size of the proposed subdivision in acres;

(3) the number of proposed lots within the proposed subdivision;

(4) the average size (in acres) of the proposed lots in the proposed subdivision;

(5) the anticipated method of water distribution to the proposed lots in the proposed subdivision including, but not limited to:

(A) an expansion of an existing public water supply system to serve the proposed subdivision (if groundwater under the subdivision is to be the source of water supply);

(B) a new public water supply system for the proposed subdivision;

(C) individual water wells to serve individual lots; or

(D) a combination of methods;

(6) if the anticipated method of water distribution for the proposed subdivision is from an expansion of an existing public water supply system or from a proposed public water supply system, evidence required under §290.39(c)(1) of this title (relating to Rules and Regulations for Public Water Systems) which shall be provided demonstrating that written application for service was made to the existing water providers within a ½-mile radius of the subdivision; and

(7) any additional information required by the municipal or county authority as part of the plat application.

Adopted June 14, 2000

Effective July 9, 2000

**§230.6. Projected Water Demand Estimate.**

(a) Residential water demand estimate. Residential water demand estimates at full build out shall be provided as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting). Residential demand estimates shall, at a minimum, be based on the current demand of any existing residential well including those identified under §230.8(b) of this title (relating to Obtaining Site-Specific Groundwater Data), or §290.41(c) of this title (relating to Rules and Regulations for Public Water Systems), and:

(1) the number of proposed housing units at full build out;

- (2) the average number of persons per housing unit;
- (3) the gallons of water required per person per day;
- (4) the water demand per housing unit per year (acre feet per year); and
- (5) the total expected residential water demand per year for the proposed subdivision (acre feet per year).

(b) Non-residential water demand estimate. Water demand estimates at full build out shall be provided for all non-residential uses as specified in §230.3(c) of this title. Non-residential uses shall be specified by type of use and groundwater demand per year (acre feet per year) for each type of use. The estimate shall also include the existing non-residential demand of any well including those identified under §230.8(b) of this title or §290.41(c) of this title.

(c) Total annual water demand estimate. An estimate of the total expected annual groundwater demand, including residential and non-residential estimates at full build out (acre feet per year), shall be provided as specified in §230.3(c) of this title.

(d) Submission of information. The sources of information used and calculations performed to determine the groundwater demand estimates as required by this section shall be made available to the municipal or county authority if requested. The plat applicant shall provide any additional groundwater demand information required by the municipal or county authority as part of the plat application.

Adopted June 14, 2000

Effective July 9, 2000

**§230.7. General Groundwater Resource Information.**

(a) Aquifer identification. Using Texas Water Development Board aquifer names, the aquifer(s) underlying the proposed subdivision which is planned to be used as the source of water for the subdivision shall be identified and generally described as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting).

(b) Geologic and groundwater information. To meet the requirements of this chapter, the following geologic and groundwater information shall be considered in planning and designing the aquifer test under §230.8(c) of this title (relating to Obtaining Site-Specific Groundwater Data):

- (1) the stratigraphy of the geologic formations underlying the subdivision;
- (2) the lithology of the geologic strata;
- (3) the geologic structure;
- (4) the characteristics of the aquifer(s) and their hydraulic relationships;
- (5) the recharge to the aquifer(s), and movement and discharge of groundwater from the aquifer(s); and

(6) the ambient quality of water in the aquifer(s).

Adopted June 14, 2000

Effective July 9, 2000

**§230.8. Obtaining Site-Specific Groundwater Data.**

(a) Applicability of section. This section is applicable only if the proposed method of water distribution for the proposed subdivision is individual water wells on individual lots. If expansion of an existing public water supply system or installation of a new public water supply system is the proposed method of water distribution for the proposed subdivision, site-specific groundwater data shall be developed under the requirements of Chapter 290, Subchapter D of this title (relating to Rules and Regulations for Public Water Systems) and the information developed in meeting these requirements shall be attached to the form required under §230.3 of this title (relating to Certification of Groundwater Availability for Platting).

(b) Location of existing wells. All known existing, abandoned, and inoperative wells within the proposed subdivision shall be identified, located, and mapped by on-site surveys. Existing well locations shall be illustrated on the plat required by the municipal or county authority.

(c) Aquifer testing. Utilizing the information considered under §230.7(b) of this title (relating to General Groundwater Resource Information), an aquifer test shall be conducted to characterize the aquifer(s) underlying the proposed subdivision. The aquifer test must provide sufficient information to allow evaluation of each aquifer that is being considered as a source of residential and non-residential water supply for the proposed subdivision. Appropriate aquifer testing shall be based on typical well completions. An aquifer test conducted under this section utilizing established methods shall be reported as specified in §230.3(c) of this title and shall include, but not be limited to, the following items.

(1) Test well and observation well(s). At a minimum, one test well (i.e., pumping well) and one observation well, shall be required to conduct an adequate aquifer test under this section. Additional observation wells shall be used for the aquifer test if it is practical or necessary to confirm the results of the test. The observation well(s) shall be completed in the same aquifer or aquifer production zone as the test well. The locations of the test and observation well(s) shall be shown on the plat required by the municipal or county authority.

(2) Location of wells. The test and observation well(s) must be placed within the proposed subdivision and shall be located by latitude and longitude. The observation well(s) shall be located at a radial distance such that the time-drawdown data collected during the planned pumping period fall on a type curve of unique curvature. In general, observation wells in unconfined aquifers should be placed no farther than 300 feet from the test well, and no farther than 700 feet in thick, confined aquifers. The observation well should also be placed no closer to the test well than two times the thickness of the aquifer's production zone. The optimal location for the observation well(s) can be determined by best professional judgement after completion and evaluation of the test well as provided in paragraph (4) of this subsection.

(3) Lithologic and geophysical logs. The test and observation wells shall be lithologically and geophysically logged to map and characterize the geologic formation(s) and the aquifer(s) in which the aquifer test(s) is to be performed.

(A) A lithologic log shall be prepared showing the depth of the strata, their thickness and lithology (including size, range, and shape of constituent particles as well as smoothness), occurrence of water bearing strata, and any other special notes that are relevant to the drilling process and to the understanding of subsurface conditions.

(B) Geophysical logs shall be prepared which provide qualitative information on aquifer characteristics and groundwater quality. At a minimum, the geophysical logs shall include an electrical log with shallow and deep-investigative curves (e.g., 16-inch short normal/64-inch long normal resistivity curves or induction log) with a spontaneous potential curve.

(C) The municipal or county authority may, on a case-by-case basis, waive the requirement of geophysical logs as required under this section if it can be adequately demonstrated that the logs are not necessary to characterize the aquifer(s) for testing purposes.

(4) Well development and performance. The test and observation well(s) shall be developed prior to conducting the aquifer test to repair damage done to the aquifer(s) during the drilling operation. Development shall insure that the hydraulic properties of the aquifer(s) are restored as much as practical to their natural state.

(A) Well development procedures applied to the well(s) may vary depending on the drilling method used and the extent of the damage done to the aquifer(s).

(B) During well development, the test well shall be pumped for several hours to determine the specific capacity of the well, the maximum anticipated drawdown, the volume of water produced at certain pump speeds and drawdown, and to determine if the observation well(s) are suitably located to provide useful data.

(C) Water pumped out of the well during well development shall not be allowed to influence initial well performance results.

(D) Aquifer testing required by this section shall be performed before any acidization or other flow-capacity enhancement procedures are applied to the test well.

(5) Protection of groundwater. All reasonably necessary precautions shall be taken during construction of test and observation wells to ensure that surface contaminants do not reach the subsurface environment and that undesirable groundwater (water that is injurious to human health and the environment or water that can cause pollution to land or other waters) if encountered, is sealed off and confined to the zone(s) of origin.

(6) Duration of aquifer test and recovery. The duration of the aquifer test depends entirely on local and geologic conditions. However, the test shall be of sufficient duration to observe a straight-line trend on a plot of water level versus the logarithm of time pumped. Water pumped during the test shall not be allowed to influence the test results. Aquifer testing shall not commence until water

levels (after well development) have completely recovered to their pre-development level or at least to 90% of that level.

(A) At a minimum, a 24-hour uniform rate aquifer test shall be conducted. Testing shall continue long enough to observe a straight-line trend on a plot of water level versus the logarithm of time pumped. If necessary, the duration of the test should be extended beyond the 24-hour minimum limit until the straight-line trend is observed.

(i) If it is impractical to continue the test until a straight-line trend of water level versus the logarithm of time pumped is observed within the 24-hour limit, the test shall continue at least until a consistent pumping-level trend is observed. In such instances, failure to observe the straight-line trend shall be recorded.

(ii) If the pumping rates remain constant for a period of at least four hours and a straight-line trend is observed on a plot of water level versus the logarithm of time pumped before the 24-hour limit has been reached, the pumping portion of the test may be terminated.

(iii) The frequency of water level measurements during the aquifer test shall be such that adequate definition of the time-drawdown curve is made available. As much information as possible shall be obtained in the first ten minutes of testing (i.e., pumping).

(B) Water-level recovery data shall be obtained to verify the accuracy of the data obtained during the pumping portion of the test. Recovery measurements shall be initiated immediately at the conclusion of the pumping portion of the aquifer test and shall be recorded with the same frequency as those taken during the pumping portion of the aquifer test. Time-recovery measurements shall continue until the water levels have recovered to pre-pumping levels or at least to 90% of that level. If such recovery is not possible, time-recovery measurements should continue until a consistent trend of recovery is observed.

(7) Use of existing wells and aquifer test data.

(A) An existing well may be utilized as an observation well under this section if sufficient information is available for that well to demonstrate that it meets the requirements of this section.

(B) The municipal or county authority may accept the results of a previous aquifer test in lieu of a new test if:

(i) the previous test was performed on a well located within a 1/4-mile radius of the subdivision;

(ii) the previous test fully meets all the requirements of this section;

(iii) the previous test was conducted on an aquifer which is being considered as a source of water supply for the proposed subdivision; and

(iv) aquifer conditions (e.g., water levels, gradients, etc.) during the previous test were approximately the same as they are presently.

(8) Need for additional aquifer testing and observation wells. Best professional judgement shall be used to determine if additional observation wells or aquifer tests are needed to adequately demonstrate groundwater availability. The Theis and Cooper-Jacob nonequilibrium equations, and acceptable modifications thereof, are based on well documented assumptions. To determine if additional information is needed, best professional judgement shall be used to consider these assumptions, the site-specific information derived from the aquifer test required by this section, the size of the proposed subdivision, and the proposed method of water delivery.

(d) Submission of information. The information, data, and calculations required by this section shall be made available to the municipal or county authority, if requested, to document the requirements of this section as part of the plat application.

Adopted June 14, 2000

Effective July 9, 2000

**§230.9. Determination of Groundwater Quality.**

(a) Water quality analysis. Water samples shall be collected near the end of the aquifer test for chemical analysis. Samples shall be collected from each aquifer being considered for water supply for the proposed subdivision and reported as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting).

(1) For proposed subdivisions where the anticipated method of water delivery is from an expansion of an existing public water supply system or a new public water supply system, the samples shall be submitted for bacterial and chemical analysis as required by Chapter 290, Subchapter F of this title (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements For Public Water Systems).

(2) For proposed subdivisions where the anticipated method of water delivery is from individual water supply wells on individual lots, samples shall be analyzed for the following:

- (A) chloride;
- (B) conductivity;
- (C) fluoride;
- (D) iron;
- (E) nitrate (as nitrogen);
- (F) manganese;
- (G) pH;

- (H) sulfate;
- (I) total hardness;
- (J) total dissolved solids; and
- (K) presence/absence of total coliform bacteria.

(3) Conductivity and pH values may be measured in the field, and the other constituents shall be analyzed in a laboratory accredited by the agency according to Chapter 25, Subchapters A and B of this title (relating to General Provisions and Environmental Testing Laboratory Accreditation, respectively) or certified by the agency according to Chapter 25, Subchapters A and C of this title (relating to General Provisions and Environmental Testing Laboratory Certification, respectively).

(b) Submission of information. The information, data, and calculations required by this section shall be made available to the municipal or county authority, if requested, to document the requirements of this section as part of the plat application.

Adopted July 9, 2008

Effective July 31, 2008

#### **§230.10. Determination of Groundwater Availability.**

(a) Time frame for determination of groundwater availability. At a minimum, both a short- and long-term determination of groundwater availability shall be made, each considering the estimated total water demand at full build out of the proposed subdivision. Groundwater availability shall be determined for ten years and 30 years and for any other time frame(s) required by the municipal or county authority.

(b) Other considerations in groundwater availability determination. Groundwater availability determinations shall take into account the anticipated method of water delivery as identified under §230.5 of this title (relating to Proposed Subdivision Information) and will be compared to annual demand estimates at full build out as determined under §230.6 of this title (relating to Projected Water Demand Estimate).

(c) Determination of aquifer parameters. The parameters of the aquifer(s) being considered to supply water to the proposed subdivision shall be determined utilizing the information considered under §230.7 of this title (relating to General Groundwater Resource Information) and data obtained during the aquifer test required under §230.8 of this title (relating to Obtaining Site-Specific Groundwater Data) for individual water wells or under Chapter 290, Subchapter D of this title (relating to Rules and Regulations for Public Water Systems) and reported as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting). The time-drawdown and time-recovery data obtained during the aquifer test shall be used to determine aquifer parameters utilizing the nonequilibrium equations developed by Theis or Cooper-Jacob, or acceptable modifications thereof. The following aquifer parameters shall be determined:

- (1) rate of yield and drawdown;
- (2) specific capacity;

- (3) efficiency of the pumped (test) well;
- (4) transmissivity;
- (5) coefficient of storage;
- (6) hydraulic conductivity;
- (7) recharge or barrier boundaries, if any are present; and
- (8) thickness of the aquifer(s).

(d) Determination of groundwater availability. Using the information and data identified and determined in subsections (b) and (c) of this section, the following calculations shall be made.

(1) Time-drawdown. The amount of drawdown at the pumped well(s) and at the boundaries of the proposed subdivision shall be determined for the time frames identified under subsection (a) of this section.

(2) Distance-drawdown. The distance(s) from the pumped well(s) to the outer edges of the cone(s)-of-depression shall be determined for the time frames identified under subsection (a) of this section.

(3) Well interference. For multiple wells in a proposed subdivision, calculations shall be made to:

(A) determine how pumpage from multiple wells will affect drawdown in individual wells for the time frames identified under subsection (a) of this section; and

(B) determine a recommended minimum spacing limit between individual wells and well yields from the wells that will allow for the continued use of the wells for the time frames identified under subsection (a) of this section.

(e) Determination of groundwater quality. The water quality analysis required under §230.9 of this title (relating to Determination of Groundwater Quality) shall be compared to primary and secondary public drinking water standards and the findings documented as specified in §230.3(c) of this title.

(f) Submission of information. The information, data, and calculations required by this section shall be made available to the municipal or county authority, if required, to document the requirements of this section as part of the plat application.

Adopted June 14, 2000

Effective July 9, 2000

**§230.11. Groundwater Availability and Usability Statements and Certification.**

(a) Groundwater availability and usability statements. Based on the information developed under §230.10 of this title (relating to Determination of Groundwater Availability), the following information shall be provided as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting):

(1) the estimated drawdown of the aquifer at the pumped well(s) over a ten-year period and over a 30-year period;

(2) the estimated drawdown of the aquifer at the subdivision boundary over a ten-year period and over a 30-year period;

(3) the estimated distance from the pumped well(s) to the outer edges of the cone(s)-of-depression over a ten-year period and over a 30-year period;

(4) the recommended minimum spacing limit between wells and the recommended well yield; and

(5) the sufficiency of available groundwater quality to meet the intended use of the platted subdivision.

(b) Groundwater availability determination conditions. The assumptions and uncertainties that are inherent in the determination of groundwater availability should be clearly identified as specified in §230.3(c) of this title. These conditions must be identified to adequately define the bases for the availability and usability statements. These bases may include, but are not limited to, uncontrollable and unknown factors such as:

(1) future pumpage from the aquifer or from interconnected aquifers from area wells outside of the subdivision or any other factor that cannot be predicted that will affect the storage of water in the aquifer;

(2) long-term impacts to the aquifer based on climatic variations; and

(3) future impacts to usable groundwater due to unforeseen or unpredictable contamination.

(c) Certification. Based on best professional judgement, current groundwater conditions, and the information developed and presented in the form specified by §230.3(c) of this title, the licensed professional engineer or licensed professional geoscientist certifies by signature, seal, and date that adequate groundwater is available from the underlying aquifer(s) to supply the estimated demand of the proposed subdivision.