

**INTERLOCAL COOPERATION AGREEMENT**  
**BETWEEN HAYS COUNTY**  
**AND THE CITY OF WIMBERLEY**  
**FOR SUBDIVISION REGULATION WITHIN THE EXTRATERRITORIAL**  
**JURISDICTION OF THE CITY OF WIMBERLEY**

**THIS INTERLOCAL COOPERATION AGREEMENT** (this "Agreement") is made and entered into by and between Hays County, Texas, a political subdivision of the State of Texas (hereinafter referred to as "COUNTY"), by and through its County Judge, Dr. Bert Cobb, and the City of WIMBERLEY, a municipal corporation of the State of Texas (hereinafter referred to as "CITY"), by and through its Mayor, Steve Thurber. The City and the County are hereinafter collectively referred to as "the Parties" or "the Parties to this Agreement."

**WHEREAS**, the CITY has duly identified its corporate limits and the areas of its extraterritorial jurisdiction (hereinafter referred to as "ETJ" or the "CITY's ETJ") within the COUNTY; and

**WHEREAS**, the CITY has adopted and is enforcing subdivision regulations pursuant to TEX. LOCAL GOV'T CODE Subchapter A of Chapter 212 and other statutes applicable to municipalities; and

**WHEREAS**, the COUNTY has adopted and is enforcing subdivision regulations pursuant to TEX. LOCAL GOV'T CODE sections 232.001-232 .005 and other statutes applicable to counties; and

WHEREAS, the COUNTY and the CITY, pursuant to TEX. LOCAL GOV'T CODE Section 242.001, both enforced their subdivision regulations in the CITY's ETJ and, in those situations where the CITY's regulation conflicted with the COUNTY's regulation, the more stringent provisions have prevailed; and

WHEREAS, the Texas Legislature revised TEX. LOCAL GOV'T CODE Chapter 242 to limit subdivision regulation within the ETJ to one entity; and

WHEREAS, under TEX. LOCAL GOV'T CODE Chapter 242, the COUNTY and the CITY wish to enter and execute an Agreement for subdivision regulation within the ETJ; and

WHEREAS, to the extent that the CITY's execution of this Agreement and related agreements with other counties in other areas of the CITY's ETJ, or the CITY's adoption, administration or enforcement of ordinances, rules, regulations or plans in reasonable furtherance of this Agreement or the related agreements results in requirements or restrictions that are not identical throughout the CITY's entire ETJ, the Parties jointly acknowledge that the actions of the CITY are "reasonably taken to fulfill an obligation mandated by state law" within the meaning of TEX. GOV'T CODE Section 2007.003(b) (4), and are therefore not subject to TEX. GOV'T CODE Chapter 2007; and

WHEREAS, both the COUNTY and the CITY desire to enter into an Interlocal Cooperation Agreement, pursuant to TEX. GOV'T CODE Section 791.011 (a), whereby the COUNTY and the CITY shall agree upon the terms of said written agreement.

**NOW, THEREFORE**, the COUNTY and the CITY mutually agree as follows:

**I. TERM OF AGREEMENT AND CERTIFICATION**

A. The COUNTY and the CITY mutually agree that the term of this Agreement shall be from the date it is formally and duly executed by both the COUNTY and the CITY until

October 1, 2014. This Agreement shall automatically renew annually on the anniversary date, unless earlier terminated by mutual agreement of the Parties.

B. Notwithstanding the foregoing, this Agreement may be terminated by either Party by giving thirty (30) days' written notice of intent to terminate this Agreement to the other Party. Any notice of intent to terminate must be delivered by deposit in the United States mail, certified, return receipt requested, to the other Party at the addresses set out herein. Upon termination of this Agreement, neither Party shall have any obligations to the other Party under this Agreement, except with respect to payment for services already rendered under this Agreement, but not yet paid.

C. The COUNTY and the CITY mutually certify that this Agreement complies with the requirements of Texas Local Government Code, Chapter 242.

## **II. COUNTY RESPONSIBILITIES**

A. The COUNTY assigns and delegates to the CITY the COUNTY's authority to approve subdivision plats within the ETJ of the CITY, pursuant to TEX. LOCAL GOV'T CODE Section 242 .001 (d), so that the CITY has exclusive jurisdiction to regulate subdivision plats in the CITY's ETJ.

B. The COUNTY Development Services Director shall, within 15 working days prior to anticipated final approval date, provide the City's Development Services staff with written recommendation for approval or disapproval of all plats for inclusion in the agenda backup prior to final plat approval.

## **III. CITY RESPONSIBILITIES**

A. The CITY shall enforce its subdivision regulations, including review and approval processes and design and construction standards, within its ETJ.

B. The CITY shall enforce in the ETJ the following Hays County Subdivision and Development Regulations attached hereto and incorporated as Attachment "A" (Chapter 701.9, Chapter 701.16, Chapter 715.3, Chapter 721, Chapter 735.5.03 and Hays County Rules for On-site Sewage Facilities Section 10-A, D, and G). As the development regulations in Exhibit "A" are amended from time to time, the County shall provide copies of such amended regulations to the City. These amended regulations shall be incorporated into and made a part of this Agreement for all purposes and shall supersede the conflicting provisions in the attached Exhibit "A."

C. If the CITY has existing ordinances establishing substantially similar standards for the subject areas of such COUNTY subdivision regulations, then the City may opt to apply the City ordinance in lieu of the corresponding COUNTY Subdivision Regulation. All City subdivision regulations not in conflict with Attachment "A" may be enforced. If either Party wishes to propose revisions in the future to subdivision regulations that apply in the ETJ, the Party will notify the other Party of the proposed change. The Parties will cooperate in determining the need for the change and its effect on this Agreement, and will adopt any change agreed to by official action of their respective governing bodies.

D. The CITY agrees to require developers to dedicate public right-of-way pursuant to the Hays County Transportation Plan as currently revised or amended, subject to applicable constitutional and statutory limitations. For subdivisions in which it appears to the CITY that a requirement for dedication of right-of- way pursuant to such Transportation Plan may exceed an applicable constitutional or statutory limitation, the CITY will notify the COUNTY , and the parties will cooperate to determine the extent of right-of-way dedication to be required, or an alternative method of securing the needed right-of-way.

When enforcing subdivision regulations in the City's ETJ, the City shall facilitate the County's road maintenance program by requiring a road standard no less than the standards set out in Attachment "A."

E. The COUNTY expressly delegates to the CITY the authority to require the preparation of a subdivision plat for the division of any property into two or more lots as required in TEX. LOCAL GOVT CODE section 232.001, including lots larger than five acres.

F. The CITY shall deliver six copies of all plat submittals to the COUNTY for review, within five working days from the date of receipt.

G. The COUNTY shall provide the CITY with written comments regarding subdivision plats within five working days from the date of receipt, and written comments regarding construction plans within ten days from the date of receipt.

H. The CITY shall include written recommendation from COUNTY Development Services Director in agenda backup for final plat approval.

I. The CITY shall require a signature block for the current COUNTY Development Services Department Director authorizing the filing of the plat under this agreement.

J. The CITY shall deliver two copies of all recorded plats for subdivisions within the CITY's ETJ to the COUNTY within five working days of the recording of the subdivision plat.

K. The CITY shall also provide to the COUNTY a digital file of each subdivision plat compliant with the currently adopted Hays County Digital Data Submission Standards.

L. The CITY shall confer and come to agreement with the Hays County 911 Addressing Division concerning street names prior to final plat approval.

M. The CITY shall allow COUNTY inspectors access to road construction sites of subdivisions within the ETJ and the CITY shall timely submit copies of all road design materials and road construction test results to the COUNTY during road construction. COUNTY inspectors shall have inspection and approval authority over the road construction, storm water drainage construction, and water and wastewater facility construction within the right-of-way and easements. However, COUNTY inspectors may, from time to time, collaborate with CITY inspectors and delegate to CITY inspectors specific inspections duties related to road construction, stormwater drainage construction, and/or water and wastewater facility construction with the right-of-way and easements. The COUNTY may request that the CITY issue a stop-work notice if, in the COUNTY'S opinion, applicable construction standards are not being met.

N. Prior to acceptance of new streets or other improvements in a subdivision, the CITY shall require of the applicant/developer a Certificate of Deposit, a Letter of Credit, or a warranty or cash bond as required by the Subdivision and Development Regulations of Hays County, payable to Hays County, which shall be binding and in effect for two (2) years from the date of acceptance of the streets and improvements. The CITY shall require the applicant/developer to be responsible for maintenance of the streets and improvements as also required by the Hays County Subdivision and Development Regulations. The CITY may also require the applicant/developer to post a utility bond or other improvements bond, payable to the CITY, if required by the subdivision regulations of the CITY.

O. The CITY shall collect and forward to the COUNTY all COUNTY subdivision fees as presently authorized or amended by the COUNTY, for services to be performed by the

COUNTY. The CITY shall have the right to charge applicants/developers reasonable fees, sufficient to cover the full cost of services provided by the CITY under this Agreement and otherwise in the administration of regulations that apply to subdivisions in the CITY's ETJ. In addition to the City's fees and in consideration of the County's performance under this Agreement, the City shall collect a \$320.00 per-lot fee for every subdivision subject to this Agreement. Subject to other taxes, fees, fines and penalties permitted by law, said \$320.00 per-lot fee shall be forwarded to the County and shall constitute full and complete compensation for County services under this Agreement.

P. If a fee, Certificate of Deposit , Letter of Credit, warranty or bond is to be forwarded to Hays County in accordance with this Agreement , the City shall promptly forward the fee, Certificate of Deposit, Letter of Credit, warranty or bond to Ms. Roxie McInnis (or her successor), Hays County Development Services Department , P.O. Box 1006 , San Marcos, Texas 78667-1006 . Physical address 2171 Yarrington Road.

Q. The CITY agrees to collaborate with the COUNTY regarding the interpretation of any rule or regulation delegated by the COUNTY under this agreement. Such collaboration may result in the granting of a variance on a case-by-case basis. However, the CITY shall not grant a variance to a COUNTY regulation without the consent of the COUNTY. For the purposes of this agreement, consent shall be included in the written recommendation by the COUNTY Development Services Director as required by COUNTY responsibilities defined in this agreement.

R. As an attachment to this Agreement, the CITY shall provide a current map and digital drawing file defining the legal boundaries of its corporate limits and areas of ETJ. The CITY shall notify the COUNTY of any changes to the CITY's ETJ within 10 days of the

effective date of the change, and the area covered by this agreement shall be described by a metes and bounds description and accompanied by an updated digital drawing file. Notice shall be provided by letter according to Section IV. C, below. A change in the area covered by this Agreement shall not, however, affect any rights accrued under TEX. LOCAL GOV'T CODE Chapter 245 prior to the effective date of the change.

S. The CITY shall submit for review by the COUNTY facility planning reports supporting the proposed subdivision as required in 30 TAC Chapter 285.

T. The CITY shall review floodplain drainage analyses of FEMA regulated floodplains that are submitted in connection with proposed subdivision plats for compliance with Chapter 735 of the Hays County Development Regulations.

#### **IV. GENERAL PROVISIONS**

**A. General Administration:** Administering this Agreement and the contact person for the COUNTY shall be the Hays County Director of Development Services, or his/her representative. Administering this Agreement and the contact person and representative for the CITY shall be the CITY Manager, or his/her designee.

**B. Alteration, Amendment or Modification:** This Agreement may not be altered, amended, or modified except in a subsequent writing signed by all Parties to this Agreement. No official, agent, employee, or representative of either the COUNTY or the CITY has the authority to alter, amend, or modify the terms of this Agreement, except in accordance with express authority as may be respectively granted by either the Hays County Commissioners Court or the CITY.

**C. Notice:** All notices sent pursuant to this Agreement shall be in writing and must be sent by registered or certified mail, postage prepaid, return receipt requested.

(a) Notices sent pursuant to this Agreement shall be sent to the Hays County Subdivision Coordinator's Office at the following address:

Mrs. Roxie McInnis (or her successors)  
Hays County Development Services,  
P.O. Box 1006  
San Marcos, Texas 78667-1006

(b) Notices sent pursuant to this Agreement may be delivered or sent to the CITY at the following address:

Don Ferguson (or his successor)  
City Administrator  
City of Wimberley  
P.O. BOX 2027  
Wimberley, TX 78676

(c) To be effective, a copy of any notices sent to the COUNTY shall be sent to the Special Counsel's Office at the following address:

Mark Driscoll Kennedy (or his successor)  
A.D.A. -- Chief - Civil Division Hays County, Texas  
111 E. San Antonio, Suite 204  
San Marcos, TX 78666

(d) To be effective, a copy of any notice sent to the CITY shall be sent to the CITY Attorney at the following address:

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(e) When notices sent pursuant to this Agreement are mailed by registered or certified mail, delivery of notice shall be deemed effective three (3) working days after deposit in a U.S. mail box or at a U.S. post office.

**D. Severability:** If any provision of this Agreement is found to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect the remaining provisions of this Agreement.

**E. Breach:** The failure of either Party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. Either Party shall be entitled to any and all rights and remedies allowed under Texas law for any breach of this Agreement by the other Party.

**F. Non-Waiver:** The waiver by either Party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision. Nothing in this Agreement is intended by either Party to constitute a waiver of any immunity from suit or liability to which it is entitled under applicable law.

**G. Entire Agreement; Third Parties:** This Agreement constitutes the entire agreement between the COUNTY and the CITY. No other agreement, statement, or promise relating to the subject matter of this Agreement and which is not contained in this Agreement or incorporated by reference in this Agreement shall be valid or binding. This Agreement is not intended to confer any rights on any third parties, and it shall not be construed as conferring any rights on any third parties.

**H. Terms used in Document:** As used in this document, the terms "Interlocal Cooperation Agreement", "Interlocal Agreement ", "Agreement", and "Contract" are synonymous.

**I. Non-Defined Terms:** If not specifically defined in this Agreement, words and phrases used in this Agreement shall have their ordinary meaning as defined by common usage.

EXECUTED THIS 13<sup>th</sup> day of October, 2015.

HAYS COUNTY

By: Bert Cobb

HONORABLE JUDGE BERT COBB, M.D.

HAYS COUNTY JUDGE



ATTEST:

Liz Q. Gonzalez

DATE: 10/13/15

LIZ Q. GONZALEZ, HAYS COUNTY CLERK

EXECUTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2015

**CITY OF WIMBERLEY**

BY: Steve Thurber

STEVE THURBER, MAYOR

ATTEST:

Don Ferguson

DON FERGUSON, CITY ADMINISTRATOR

DATE: 12/28/15

## **ATTACHMENT "A"**

# **CHAPTER 701 - DEVELOPMENT REGULATIONS IN GENERAL**

## ***Sub-Chapter 9 - General Public Notice Requirements***

### **§9.01. Communication with Precinct Commissioner**

Where individual Chapters of these Regulations require communication or contact with the Precinct Commissioner, the Applicant or the Applicant's authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed development is located prior to the submission of the Application. This contact or communication shall consist of either written communication or a personal visit by the Applicant or the Applicant's authorized agent. The Commissioner shall establish and make available to the public a copy of contact procedures for this purpose. Commissioners may delegate contact and communication responsibilities to one or more members of their staff. If the Commissioner requests a personal visit in response to receiving written communication, the Applicant or the Applicant's authorized agent shall arrange a personal visit with the Commissioner or the Commissioner's designee at a mutually agreeable time and place. The purpose of this personal visit shall be for the Applicant to inform the Commissioner about the project and for the Commissioner to present to the Applicant any constraints or concerns associated with the project. Documentation of contact or communication with the Commissioner, including the personal visit, if requested, shall be furnished to the County in conjunction with an Application.

### **§9.02. Notice Required**

Where individual Chapters of these Regulations require notice, the Applicant is responsible for accomplishing such notice regarding the Application or any action thereon, including any costs associated with such notice. Where the requirements of state or federal law dictate that the County actually accomplish such notice associated with an Application or any action thereon, the Applicant shall be responsible for the payment of fees and charges established by the Commissioners Court to cover the cost of such notice.

### **§9.03. Documentation**

Where individual Chapters of these Regulations require notice, the Applicant is responsible for furnishing documentation to the County confirming that such notice was accomplished. Specific documentation requirements shall be established by the Department for each type of notice required under these Regulations.

### **§9.05. Written Notice for Political Subdivisions and Contiguous Properties**

Where individual Chapters of these Regulations require written notice, the Applicant shall be required to notify affected political subdivisions and the owners of Contiguous Properties through written notice. The following provisions apply to Written Notice, where required:

- (A) The written notice must include a map clearly showing the boundaries and general location of the proposed development and major roadways in the vicinity.
- (B) The written notice must include a general description of the nature of the proposed development, including identification of the Applicant and the Permittee and a general description of the nature of the activities for which approval is being requested.

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- (C) The written notice must also include any additional information required by the individual Chapter that includes the written notice requirement.
- (D) The Applicant shall forward copies of any written notice to any other parties to the application, including the Permittee and/or the owners of the Subject Property.

### **§9.06. Identification of Affected Political Subdivisions**

Where written notice is required to be submitted to an affected political subdivision, as part of its technical review of a completed application the Department shall identify all political subdivisions affected by the Application for which it has available records. The list of affected political subdivisions shall at a minimum include any political subdivision within whose boundaries the Subject Property is located. If the Subject Property is not located within the boundaries of an emergency services or management district, a school district, a water utility district, or a wastewater utility district, the nearest such district shall be included in the list of affected political subdivisions. The address for notice purposes for each affected political subdivision shall be the address furnished by the Department to the Applicant.

### **§9.07. Identification of Contiguous Property Owners**

Where written notice is required to be submitted to owners of Contiguous Property, the applicant shall identify all owners of Contiguous Property that are not parties to the Application. The identified owners for the Contiguous Properties shall be those owners on file with the Hays Central Appraisal District (HCAD) within thirty (30) days prior to the date the Application is filed. The address of the identified owners for notice purposes shall be the address on file with the HCAD.

### **§9.08. Delivery of Written Notice**

The following requirements apply to the delivery of Written Notice, where required:

- (A) The person may deliver the written notice in person, by express courier or by depositing the notice with the United States Postal Service (USPS), postage paid. Personal delivery and delivery by express courier shall be confirmed by a written acknowledgement of receipt by the party to whom the written notice was delivered or their authorized agent. Mailed notice deposited with the USPS shall be sent certified with return receipt requested. Mailed notice may be confirmed by the receipt returned by the USPS. In instances where the person to receive Written Notice has requested that the person making the Written Notice submit such Written Notice via electronic media, the person making such Written Notice may deliver that notice via electronic media. All instances of Written Notice delivered via electronic media must be confirmed in writing or by receipt of an affirmative reply from the recipient via electronic media. Nothing in this section shall be construed to require the issuance of Written Notice via electronic media.
- (B) Where written notice is required to affected political subdivisions, within ten (10) working days of receipt of notice from the Department that the Application has been determined to be Administratively Complete and the Department's providing the Applicant with a list of affected political subdivisions, the Applicant shall provide written notice of the proposed development to each of the affected political subdivisions.
- (C) Where written notice is required to owners of Contiguous Properties, within ten (10) working days of the filing of the application, the Applicant shall provide written notice of

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the Application to each of the owners of Contiguous Property that are not parties to the Application.

(D) Within ten days of providing such written notice under these Regulations, the Applicant shall provide copies of the notification and proof of notice delivery to the Department.

### **§9.09. Published Notice**

Unless otherwise required under individual chapters, where published notice is required, it shall be accomplished in a newspaper of general circulation in the County at least two (2) times. For published notice of Applications, such notice shall be published within thirty (30) calendar days of filing the Application. For published notice of the consideration of action on any aspect of an Application, such notice shall be published during the period beginning on the 30th calendar day and ending on the 7th calendar day prior to such consideration. To document publication of the required notice, the person having such notice published shall submit an original, signed publisher's affidavit demonstrating actual publication.

### **§9.10. Review of Public Notice by the County**

The County may review any and all procedures used by the Applicant or others to accomplish public notice under these Regulations. The County shall require additional public notice for any public notice deemed by the County as not in compliance with these Regulations. The County may suspend the processing of any application for which the County determines that public notice was not accomplished in substantial compliance with these Regulations. The Applicant or Permittee shall be responsible for the costs of such additional public notice required as a result of failing to publish notice in substantial compliance with these Regulations.

### **§9.11. Additional Public Notice by the County**

Where these regulations require notice, the County may accomplish additional public notice of any Application or pending action on such Application using whatever means it may deem appropriate and as required by federal, state or local law. Any such costs for this additional public notice shall be the responsibility of the County. Additional public notice by the County may include, but is not limited to, posting notice on the Commissioners Court agenda, posting notice in conjunction with other posted notices at County facilities, posting on any electronic medium maintained or used by the County, or inclusion of such notice in any announcement or communication performed by the County. Except where required by law, such additional public notice by the County will be at the discretion of the Commissioners Court. The Department shall also distribute all written and published public notice required under these Regulations to those persons on the Department maintained public distribution list in accordance with Subchapter 10 of this Chapter.

### ***Sub-Chapter 16 - Coordination with "911" Addressing System***

This subchapter shall govern the coordination required with the "911" Addressing System prior to issuance of a Development Authorization by the County.

#### **§16.01. Communication with County "911" Coordinator**

Prior to submitting an Application, the Applicant or the Applicant's authorized agent is required to contact the County "911" Coordinator to confirm the suitability of the naming and designation of proposed roadways and to establish procedures for identifying the "911" addresses for the

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subdivision. Applications for subdivisions must confirm the suitability of the name and designations in conjunction with the Preliminary Plan.

### **§16.02. Additional Coordination**

The County "911" Coordinator may require the Applicant to coordinate "911" addressing information with the Hays County Sheriff, municipal police and fire departments, emergency services districts (ESDs) and any other emergency response agencies authorized to operate in the County whose response might be requested during an emergency.

### **§16.03. Approval Required**

Prior to the issuance of a Development Authorization by the County, the Applicant shall submit evidence of approval by the County "911" Coordinator for the following:

- (A) The proposed names or designations for new roadways, shared access easements or shared access driveways associated with any Application to the County for a Development Authorization. The County "911" Coordinator is hereby authorized to withhold approval of names or designations that the coordinator determines are very similar to existing names or designations or which may otherwise contribute to confusion in names or designations in a way that may hinder emergency response.
  - (1) When names or designations are allowed to change on a continuous street, street signs must be placed in a clear and unambiguous manner, so as not to hinder emergency response.
- (B) If "911" addresses have not previously been established for the proposed development, in conjunction with the final Development Authorization, the County shall establish a "911" address for each lot or component of the development served by a Regulated Roadway, shared access easement or shared access driveway associated with that development. If the development plan includes multiple habitable structures located on the same lot (e.g. a multi-unit residential housing unit, a Manufactured Home Rental Community, a multi-unit commercial development, etc.), a "911" address shall be established for each habitable structure. The "911" addresses shall be established by the County "911" Coordinator.

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**CHAPTER 715 - WATER AND WASTEWATER AVAILABILITY**

***Sub-Chapter 3 - Water Availability***

**§3.01. Applicability**

The following developments are exempted from the requirements to certify water availability under these Regulations. The County encourages exempted developments to comply with these Regulations.

- (A) Exempted subdivisions as defined under §701.3.01.
- (B) Exempted Manufactured Home Rental Communities as defined under §745.2.01.
- (C) The following categories of non-exempt subdivisions are not required to demonstrate water availability, subject to the inclusion of a plat note prohibiting further non-exempt subdivision or re-subdivision for a period of five (5) years following the filing of the Final Plat:
  - (1) All non-exempt subdivisions of five (5) lots or less in which all lots average at least two (2) acres.
  - (2) All subdivisions of ten (10) lots or less in which all lots are larger than ten (10) acres.

**§3.02. Items Common to All Water Availability Demonstrations**

The following items shall be addressed in all water availability demonstrations prepared under these regulations, regardless of the source(s) utilized:

- (A) An estimate of the amount of water demand throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development;
- (B) A statement as to whether there are plans for alternative or backup water service; if so, an identification of the alternative or backup water source;
- (C) A description of any anticipated new water facility improvements required to serve the development;
- (D) A map showing the proposed location of all water facilities throughout all phases of development as well as the proposed water service area, including any TCEQ-approved service area boundaries of a water service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision;
- (E) An estimated timetable for completion of all facilities; and,
- (F) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all water facilities throughout all phases of development shall be identified and included in the application.

**§3.03. Notification for All Developments Utilizing Local Groundwater**

This Subchapter addresses the requirements that Subdivisions and Manufactured Home Rental Communities must meet to demonstrate water availability using Local Groundwater for the purposes of obtaining a Development Authorization from the County. These Regulations do not

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include the details for requirements on the withdrawal and use of groundwater that may originate from the regulations other entities. The public is hereby notified that portions of Hays County are within the jurisdiction of other governmental entities, including Groundwater Conservation Districts and the Edwards Aquifer Authority, which regulate the withdrawal and use of groundwater under direct authority from the State of Texas, independent from the authority of Hays County. Within their statutory authority, these other governmental entities may impose requirements in addition to those contained in these Regulations. The Department shall cause to be included in any Development Authorizations issued under these Regulations a notice that valid limitations imposed by these other authorized entities are incorporated as a special provision into the terms of the County's Development Authorization and may be enforced as such by the County. The Department shall also develop and publish requirements for incorporating into the Record Documents notice of the requirements of these other governmental entities.

Where applicable federal, state or local statutes require Applicants to submit water availability certifications to other governmental entities, the Applicant shall document compliance with these requirements. Where the Department is made aware of applicable regulations of other entities, the Department shall process any Application as requesting a variance where that Application is determined to not be in compliance with such other regulations. It is the intention of these Regulations that all Applications be processed, to the extent authorized under State law, to not conflict with Groundwater Management Area planning efforts, established sustainable yields, desired future conditions, and managed available groundwater volumes.

### **§3.04. Procedures for Department Coordination with the Applicable Groundwater Conservation District**

For all water availability demonstrations which rely in whole or in part on Local Groundwater, the Department shall ensure that a copy of the water availability demonstration is submitted to the applicable groundwater conservation district(s) [GCD] for review and comment. Where the Applicant is required to make such a submittal under §715.3.03, the Department shall forward to the GCD within ten (10) working days of receipt, a written request for review and comment on the portion of the availability demonstration relying on Local Groundwater. Where such submittal to the GCD is not otherwise required by the Applicant, the Department shall forward the information to the GCD within ten (10) working days of receipt, with a written request for review and comment on the portion of the availability demonstration relying on Local Groundwater. If the Department has not received written comments from the GCD within fifteen (15) working days, the GCD shall be considered as having waived the opportunity for review and comment on the availability demonstration. The Department shall consider all comments received from the GCD and may request such additional information from the Applicant as the Department deems appropriate in response to these comments. The Department shall include a summary of any comments timely received from the applicable GCD in any report made to the Commissioners Court on an Application. If the County has adopted a Memorandum of Understanding (MOU) with any GCD, the Department shall follow the procedures outlined in the MOU.

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### **§3.05. Water Availability Demonstrations Using Individual Private Water Wells Producing Local Groundwater**

In addition to the requirements outlined in §715.3.02, Applicants requesting approval to utilize one or more individual private water wells using Local Groundwater to serve the proposed development shall construct at least two wells (one test well and one monitor well). Use of existing wells will be permitted if the wells fully meet these regulations. Well analyses shall be performed by a Texas licensed professional engineer or Texas licensed professional geoscientist, qualified to perform the hydrogeological testing, geophysical well logging and aquifer pump testing. The following information shall be provided to Commissioners Court for each well tested.

- (A) Identify the hydrogeologic formation by well driller's log and approved geophysical logging methods. Provide a map and list of all known wells within 1,000 feet of the proposed subdivision boundaries (or a distance where measurable drawdown effects from the proposed subdivision well are expected). Each well is to be located by latitude and longitude.
- (B) The Certification of Groundwater Availability For Platting Form as required by the TCEQ rules on Groundwater Availability Certification for Platting at 30 Tex. Admin. Code Section 230.3. The Department shall require an applicant to submit any engineering calculations, studies or other data supporting the statements contained in the Certification of Groundwater Availability For Platting Form.

Individuals marketing the development shall provide each purchaser or renter with a statement describing the extent to which water and wastewater service will be made available, and how and when such service will be made available.

### **§3.06. Additional Requirements for Subdivisions Served by Individual Water Wells Producing Local Groundwater in Priority Groundwater Management Areas**

Applicants requesting approval to utilize individual private water wells producing Local Groundwater to serve proposed new development in a Priority Groundwater Management Area, as that term is defined by the Texas Commission on Environmental Quality, shall be subject to the following additional requirements:

- (A) The person preparing the groundwater availability certification shall document that they obtained available information on historical water levels and known water wells from the applicable Groundwater Conservation District.
- (B) The person preparing the groundwater availability certification shall perform a walking receptor survey around the perimeter of the Subject Property to identify the visual location of apparent undocumented water wells and to visually confirm the presence of documented water wells within five hundred (500) feet of the boundaries of the subject property.
- (C) The person preparing the groundwater availability certification shall estimate the average annual recharge (per acre) in the vicinity of the Subject Property using a Groundwater Availability Model (GAM) reviewed and approved by the Texas Water Development Board.

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(D) The person preparing the groundwater availability certification shall utilize the estimated annual average recharge rates (developed under §715.3.06.C) to determine the total estimated annual recharge for the footprint area of the Subject Property. The estimated annual recharge for the Subject property shall be compared to the projected annual groundwater withdrawal, to assess whether the projected withdrawal exceeds the estimated recharge. For developments where the projected withdrawal exceeds estimated recharge, the Applicant shall take one or more of the following steps:

(3) Comply with the minimum lot size requirement of 6.00 acres, as presented in Table 705.05.01;

(4) Provide a supplemental demonstration of water availability based on an Other Water Supply System and prorate the minimum lot size requirement using 6.00 acres for the percentage provided by Local Groundwater and the otherwise applicable value from Table 705.05.01 for the Other Water Supply System; or,

(5) Subject to the requirements of §715.3.06(F), secure the future development rights for currently undeveloped property in a quantity sufficient to balance the groundwater withdrawal for the Subject Property with overall recharge from the Subject Property and other property, and provide Written Notice, as outlined in Chapter 701, to the owners of all proximate property for which a groundwater well is documented or discovered during the walking receptor survey and the owners of any other documented well within one-quarter mile of the Subject Property, that the projected groundwater use for the proposed development is being offset through the acquisition of additional property. The Department shall make available to the public standardized notice language for this purpose.

(E) For developments where the availability of groundwater is limited to less than the flow required to support fully developed conditions, the Applicant shall include in the Water and Wastewater Service Plan the procedures to be utilized to limit groundwater withdrawal to the certified available quantity.

(F) Property outside the Subject Property that is used for the purpose of balancing the groundwater withdrawal for the Subject Property shall comply with the following conditions:

(6) Eligible additional property must recharge to the same aquifer zone as the Subject Property and be within the same PGMA.

(7) All such additional property shall be subject to a conservation easement or equivalent legal mechanism structured to prohibit in perpetuity its future subdivision or development. The easement or instrument shall be granted to the public and shall be held by the County or other non-profit legal entity recognized by the County as custodian for the County. Such easement or instrument shall be in such form and under such conditions as are acceptable to the County.

(8) For properties located within the jurisdiction of public entities having zoning authority, the Applicant shall provide documentation that the zoning for the additional property is "agricultural", "open space" or other equivalent zoning that allows little to no development of the additional property.

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- (9) The additional property shall either be contiguous to the Subject Property or located within five (5) miles of the Subject Property.
- (10) Additional property that is contiguous to the Subject Property may be considered as providing the same recharge as the Subject Property.
- (11) Additional property that is not contiguous but is located within five (5) miles of the Subject Property shall be considered as providing seventy five percent (75%) of the recharge provided by the Subject Property.
- (12) In instances where the Applicant proposes to secure the development rights from a property (the originating property) that is outside the jurisdiction of the County and within the jurisdiction of one or more local governmental entities, the Applicant must provide documentation of the written approval of the transfer from each such local governmental entity with jurisdiction over the originating property.

**§3.07. Water Availability Demonstrations Utilizing a new TCEQ public water supply system:**

In addition to the requirements outlined in §715.3.02, Applicants proposing to serve a development through a new public water supply system shall include the following information in the Water and Wastewater Service Plan:

- (A) If water service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.
- (B) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the Applicant shall supply a letter to the Department from the water service provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.
- (C) Within ten (10) working days of receiving this supply letter, the Department shall notify in writing all governmental entities which the Department has record of having jurisdiction over any aspect of water supply to the proposed development requesting their comments on the letter. In instances where the water service provider does not own or otherwise control the source(s) of supply, the Department may require that the Applicant obtain supporting documentation certifying the availability of adequate supply from the actual water supply source(s) in addition to the information required to be provided by the water service provider. The Department shall include in any Development Authorization a Special Provision recognizing the requirements of any other governmental entity with established jurisdiction over the proposed development. Any disputes between the Applicant, water service provider and other governmental jurisdictions shall be heard by the Commissioners Court.
- (D) For developments within the jurisdiction of a Groundwater Conservation District that utilize groundwater in their demonstration, a formal groundwater availability analysis, in accordance with 30 TAC 230, shall be completed, along with a statement acknowledging that all applicable requirements of the GCD will be met.

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### **§3.08. Water Availability Demonstrations Utilizing an existing TCEQ-permitted public water supply:**

If wholesale or retail water service is to be provided by an existing water utility or other existing water service provider, an applicant shall submit a written statement from the existing provider containing the following:

- (A) A description of the authority of the existing provider to serve the proposed phase of development.
- (B) A statement as to whether the existing provider has available capacity to serve the proposed phase of development, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development.
- (C) A description of the type of water service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.
- (D) Identification of any anticipated water supply or service agreements that will need to be executed prior to the provision of service.
- (E) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.
- (F) Within ten (10) working days of receiving this supply letter, the Department shall notify in writing all governmental entities which the Department has record of having jurisdiction over any aspect of water supply to the proposed development requesting their comments on the letter. In instances where the water service provider does not own or otherwise control the source(s) of supply, the Department may require that the Applicant obtain supporting documentation certifying the availability of adequate supply from the actual water supply source(s) in addition to the information required to be provided by the water service provider. The Department shall include in any Development Authorization a Special Provision recognizing the requirements of any other governmental entity with established jurisdiction over the proposed development. Any disputes between the Applicant, water service provider and other governmental jurisdictions shall be heard by the Commissioners Court.

### **§3.09. Water Availability Demonstrations Utilizing Rainwater Harvesting**

In addition to the requirements outlined in §715.3.02, Applicants proposing to serve a development through rainwater harvesting shall include the following information in the Water and Wastewater Service Plan:

- (A) Estimates of the water availability from rainwater harvesting shall be based upon the "The Texas Manual on Rainwater Harvesting", published by the Texas Water Development Board, or other industry standard sources acceptable to the Department.
- (B) Water demand estimates for demonstrations involving rainwater harvesting, including demonstrations utilizing multiple water sources, may not be lower than the largest value of the following:

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- (13) The maximum water usage rates for "water conserving households" identified by the American Water Works Association, "Residential End Uses of Water";
- (14) A total of forty five (45) gallons per person per day;
- (15) A total of one hundred fifty (150) gallons per dwelling unit per day.

(C) The Water and Wastewater Service Plan shall include a standardized design for a rainwater harvesting system, prepared by a Texas licensed professional engineer, using design parameters applicable to the location of the Subject Property. This standardized design shall be based on a prototype representative of actual conditions anticipated to be present in the proposed development, including typical structure sizes and materials of construction. The standardized design shall include schematic plans, drawings and descriptions for the various component parts of the prototype system, and shall include any minimum requirements (e.g. minimum storage tank sizes) and appropriate adjustment factors to be used for each component to account for the range of differing sizes and configurations of structures anticipated to be present in the proposed development.

(D) The Water and Wastewater Service Plan shall include a standardized operations and maintenance plan for a rainwater harvesting system, prepared by a Texas licensed professional engineer. This operating and maintenance plan shall be based on the prototypical design and shall describe in detail the operating and maintenance requirements for each component of the prototypical rainwater harvesting system.

(E) The Water and Wastewater Service Plan shall clearly identify any water conservation measures and use limitations used in estimating the water demand and shall include the provisions to be utilized to ensure that the end users of the rainwater harvesting systems are aware of the need to follow these restrictions.

(F) Where rainwater harvesting constitutes the sole source of water supply for the development, the Applicant shall incorporate sufficient restrictions (including deed restrictions and plat notes) into the development documents to ensure that subsequent owners or users of the property do not install or utilize groundwater wells, until an updated water availability demonstration is approved documenting sufficient groundwater is available.

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# CHAPTER 721 - ROADWAY STANDARDS

## *Sub-Chapter 1 - Applicability*

### **§1.01. Applicability**

This Chapter shall govern the following items related to Regulated Roadways within the County:

- (A) The design and construction of all Regulated Roadways as defined in Chapter 701.
- (B) The minimum roadway widths and building set back lines for Regulated Roadways.

### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 231, 232 and 234, and under the Texas Transportation Code (TTC) Chapters 251, 286 and 545.

### **§1.03. Approval Required**

Approval of the Commissioners Court is required prior acceptance by the County of Regulated Roadways. Separate approval is required under Chapter 751 for any use of existing County facilities, including roadway rights-of-way, which are not part of the Application for a Development Authorization.

## *Sub-Chapter 2 - Roadway Classifications*

### **§2.01. Basis for Classification**

Regulated Roadways shall be classified based on the criteria established in "A Policy on Geometric Design of Highways and Streets", latest edition, as developed by the American Association of State Highway and Transportation Officials (AASHTO). For the purposes of these Regulations, regulated roadways shall be designed to handle the average daily traffic (ADT) estimated to occur for a period of twenty (20) years following completion of construction of the roadway, with the pavement sections and widths required to accommodate the design ADT at the applicable speed limits adopted by the County. At a minimum, pavement sections and widths shall conform to the suggested minimum requirements established by AASHTO for the specified classification of roadway. Roadways shall also be classified under TTC Chapter 251. Roadway classification information is included in Table 721.02.

### **§2.02. Country Lane**

A Country Lane shall be a one or two lane paved roadway, without improved shoulders, and considered a Special Purpose Road with a design capacity of up to 100 ADT in accordance with AASHTO design standards, and third-class roadways in accordance with TTC Chapter 251.

### **§2.03. Local Roadway**

A Local Roadway shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Local Rural Road with a design capacity of between 101 and 1,000 ADT in accordance with AASHTO design standards, and third-class roadways in accordance with TTC Chapter 251.

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**§2.04. Urbanized Local Roadway**

An Urbanized Local Roadway shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Special Purpose Road with a design capacity of up to 1,000 ADT in accordance with AASHTO design standards and third-class roadways in accordance with TTC Chapter 251.

**§2.05. Minor Collector**

A Minor Collector shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Rural Collector with a design capacity of 1,001 to 2,500 ADT in accordance with AASHTO design standards, and may be either second-class or third-class roadways in accordance with TTC Chapter 251.

**§2.06. Major Collector**

A Major Collector shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Collector with a design capacity of 2,501 to 5,000 ADT in accordance with AASHTO design standards, and may be either first-class or second-class roadways in accordance with TTC Chapter 251.

**§2.07. Minor Arterial**

A Minor Arterial shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Arterial with a design capacity of 5,001 to 15,000 ADT in accordance with AASHTO design standards, and may be either second-class or third-class roadways in accordance with TTC Chapter 251.

**§2.08. Major Arterial**

A Major Arterial shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Arterial with a design capacity of greater than 15,000 ADT in accordance with AASHTO design standards, and may be either first-class or second-class roadways in accordance with TTC Chapter 251.

***Sub-Chapter 3 - Public Roadways***

**§3.01. Dedication to Public**

Any dedication of a roadway to the County for public use shall be accomplished using one of the methods allowed under Chapter 701, Subchapter 11. No dedication shall be effective until the record document is recorded. In no event shall any private lot extend into a dedicated public roadway.

**§3.02. Publicly Maintained and Dedicated Roadways**

Roadways dedicated to the public (Public Roadways) shall be required in all developments approved under these Regulations, except those satisfying the criteria for private roadways, as set forth below. All such Public Roadways shall be paved and shall be Regulated Roadways designed and constructed in accordance with the specifications set forth in Chapter 721, Subchapter 5. The boundary lines of all subdivision Lots fronting onto a publicly dedicated right-of-way shall be contiguous with the boundary of the right-of-way.

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### **§3.03. Construction of Public Roadways**

Public Roadways shall be considered public infrastructure, subject to the requirements of Chapter 731. Unless interim authorization for construction is obtained under Chapter 731, construction of public roadways shall not commence until such time as a Development Authorization has been issued by the County on an Application filed under these Regulations.

### **§3.04. Connections to Public Roadways under the Jurisdiction of Other Entities**

Certain Regulated Roadways and appurtenances governed by these Regulations may require connection to or construction on or within the right-of-way of public roadways under the jurisdiction of other public entities, including the Texas Department of Transportation (TXDOT), or any other authorized state or federal government entity. All construction and access to these roadways conducted in conjunction with a development authorized under these Regulations shall comply with the requirements of the entity having jurisdiction over the affected public roadway.

## ***Sub-Chapter 4 - Private Roadways***

### **§4.01. General Requirements for Private Roadways**

All private roadways qualifying as Regulated Roadways (Regulated Private Roadways) shall be designed and constructed in accordance with the standards in Chapter 721, Subchapter 5 for Public Roadways. All Regulated Private Roadways shall have a surface suitable for all-weather access to all portions of the proposed development served by such Regulated Private Roadway.

### **§4.02. Criteria for Determining Private Roadway Status**

Regulated Private Roadways shall be permitted only in conjunction with a development approved under these Regulations if they satisfy each of the following criteria:

- (A) The person(s) responsible for the operation and maintenance of the Regulated Private Roadway has executed an agreement with the Commissioners Court acknowledging responsibility for such operation and maintenance;
- (B) The executed agreement includes financial assurance, as required by the Commissioners Court; and,
- (C) Lots within the development served by the Regulated Private Roadway shall have an average size greater than 5 acres; or.

The Commissioners Court has entered into an approved Development Agreement with the Owner or Permittee regarding the development of a master-planned community of no fewer than fifty (50) residential Lots.

### **§4.03. General Requirements for Maintenance of Private Roadways**

Development Authorizations that include the use of Regulated Private Roadways shall be subject to a maintenance agreement with the County. The person(s) responsible for maintenance under the agreement may be the Owner of the Subject Property, the Permittee, or another person or entity acceptable to the County. The following provisions apply to Regulated Private Roadways:

- (A) The following note shall be conspicuously displayed on the Record Documents filed in conjunction with the Development Authorization:

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[Owner], by filing this Record Document, and all future owners of this property, by purchasing such property, acknowledge and agree that Hays County shall have no obligation whatsoever to repair or accept maintenance of the roadways shown on this approved development plan until and unless [Owner] and/or the property occupants or tenants have improved the roadways to the then current standards required by Hays County and the roadways have been accepted for maintenance by formal, written action of the County Commissioners Court and the roadways, with all required right-of-way and building setbacks, have been dedicated by the owners thereof, and accepted by the County, as public roadways. [Owner] and all future owners of property within the limits of the approved development plan shall look solely to the [Owner or Entity entering into Maintenance Agreement with the County] for future maintenance and repair of the roadways included in this development plan; and

- (B) Any restrictive covenants establishing a responsibility for roadway operation and maintenance shall be placed on record concurrently with the recording of the Record Documents.
- (C) Regulated Private Roadways shall be operated and maintained to allow unrestricted ingress/egress by the occupants of the property and service providers, including emergency services. The maintenance agreement with the County shall include enforcement provisions for Regulated Private Roadways that are not properly operated and maintained.

### **§4.04. Additional Requirements for Private Roadways to be Maintained by an Association**

Concurrently with the filing of an Application for a Development Authorization that will include Regulated Private Roadways, the Applicant shall submit the following:

- (A) Ready-for-execution copies of the articles of incorporation and bylaws of the homeowners or property owners association; and,
- (B) The minimum annual assessments that will be imposed upon members of the association.

### ***Sub-Chapter 5 - Standards for Regulated Roadways***

#### **§5.01. Applicability**

Regulated Roadways are defined in Chapter 701, and include all roadways associated with an Application for a Development Authorization under these Regulations, including existing public roadways that are being connected or modified to accommodate the effects of a proposed development, new roadways dedicated to the public as part of a Development Authorization, new private roadways, shared access easements, and shared access driveways used for emergency services access as a part of a Development Authorization, and driveways, utilities, storm water management facilities or other facilities within the right-of-way of a Regulated Roadway.

#### **§5.02. Design Requirements**

All Regulated Roadways and related improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of utilities, drainage and roadways and

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to permit continuity of improvements to adjacent properties. A Roadway Design Report, prepared by a Texas licensed professional engineer, certifying compliance with these Regulations and other applicable standards shall be prepared and submitted with the Application.

### **§5.03. Minimum Rights of Way and Building Setbacks**

All Regulated Roadways shall comply with the established minimum right-of-way widths and building setback lines based on the roadway classification. Above-grade construction is prohibited within the established building setback lines. Building setback lines apply on each side of a Regulated Roadway. The established minimum right-of-way widths and building setback lines are presented in Table 721.02, below.

### **§5.04. Design and Construction Standards**

- (A) The classification and construction standards for all Regulated Roadways shall be determined according to the Average Daily Traffic anticipated for the roadways. The Roadway Design Report shall include estimates of the Average Daily Traffic (ADT) before and after the proposed development. The methodology for estimating ADT shall be based on recognized industry standards, including those utilized by the Texas Department of Transportation (TXDOT) and AASHTO. The post-development ADT shall be based on the maximum number of Lots that would be permitted in the approved development plan.
- (B) The geometric requirements for Regulated Roadways shall be identified in the Roadway Design Report and shall be designed to accommodate the design ADT of the roadway. The minimum geometric standards for Regulated Roadways are summarized in Table 721.02.
- (C) The design and construction of all Regulated Roadways shall conform to the Hays County Specifications for Paving and Drainage Improvements, as adopted by the Department, and shall include all necessary improvements, including necessary signage and traffic control devices. All signage and traffic control devices shall conform to the "Texas Manual of Uniform Traffic Control Devices," latest edition, as adopted by TXDOT. Speed bumps are not authorized as traffic control devices on Public Roadways. Pedestrian elements (e.g. sidewalks, crosswalks, access ramps, etc.) for projects in Public Roadways shall comply with the accessibility requirements of the Texas Department of Licensing and Regulation (TDLR), and if required, shall be submitted to TDLR for review and approval.
- (D) Incentive for Lots Larger than Five Acres. As an incentive to developers to create lots larger than five acres and to reduce their associated development costs, Country Lane roadways may be constructed, without calculation of the Average Daily Traffic, if all Lots with frontage or access onto the roadway are (i) larger than five acres in size, (ii) restricted by a note on the Record Document limiting development to one single family dwelling unit per Lot and prohibiting TCEQ Regulated Development, and (iii) the application is approved by the Department.
- (E) Incentives for Bicycle Paths and Lanes. If portions of a Local Roadway or Minor Collector are set aside and appropriately designated for the use of bicycles (or a separate bike path is constructed parallel to the roadway), then the amount of right-of-way dedicated to such bicycle use shall be credited against the width of required shoulders and

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the Department may reduce the estimated Average Daily Traffic per Lot in determining the design criteria for the roadway served by the bicycle path/lane, in an amount determined appropriate by the Department.

(F) Clearance of Right-of-Way. Upon request by the Owner, the Department shall, to the extent it is safe and prudent to do so, permit preservation of trees of greater than ten inches (10") in diameter, measured one foot from the ground (or the replanting of trees by the Owner), within rights of way of roadways classified as Country Lanes, Local Roadways and Minor Collectors, with greater preservation of trees permitted along roadways with the lower design speed. The Owner shall be responsible for affixing reflectors or other safety devices to any trees preserved within the right-of-way.

### **§5.05. Access to Regulated Roadways**

Except with respect to Lots served by Shared Access Driveways, each Lot shall have the minimum direct frontage onto a Regulated Roadway set forth below and Driveways shall be spaced no closer than the minimum space intervals set forth below, depending on the classification of road onto which the Lot has frontage and the driveway has access. All such driveways shall conform to the Hays County Driveway Specifications, as adopted by the Department.

(A) Incentive for Qualifying Lots. Qualifying Lots will be exempt from the minimum lot frontage and driveway spacing requirements specified above if approved by the Department and Commissioners Court with due regard to safety concerns. A Qualifying Lot is any Lot that (i) is restricted by plat note to development of a single family residence, (ii) has direct access onto a Regulated Roadway and (iii) satisfies the minimum Lot size requirements set forth in these Regulations either through actual lot size or lot size averaging.

(B) Flag Lots. Flag lots shall generally not be permitted, except if approved by the Commissioners Court as consistent with the intent and spirit of these Regulations. The Department shall advise the Commissioners Court if a proposed Lot constitutes a "flag lot" and the Commissioners Court shall, in reviewing all the circumstances, make the final determination.

### **§5.06. Commercial Driveways**

Driveways serving commercial development shall be spaced at the minimum intervals of one hundred fifty feet (150"). Joint-use driveways may be utilized in situations that limit the number of driveway access permits that are issued by either the State of Texas or Hays County to a public roadway, or where safety concerns provide a satisfactory explanation for its use.

### **§5.07. Shared Access Driveways**

Up to one (1) Lot without independent access to a Regulated Roadway may obtain access to a Regulated Roadway by means of a Shared Access Driveway if approved by the Commissioners Court. An additional two (2) Lots having independent access to a Regulated Roadway may also share the use of the Shared Access Driveway. Shared Access Driveways are intended as a means to provide flexibility in the development process, preserve the rural character of the land and avoid excessive infrastructure costs when such costs would provide little or no social benefit. Shared Access Driveways are not intended to serve as a substitute for interior roads. Excessive

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use of Shared Access Driveways will not be permitted. Any application proposing shared access driveways shall also satisfy the following requirements:

- (A) A plat note must be conspicuously displayed on the plat stating:
  - (16) All lots served by a Shared Access Driveway are restricted to one single family residence per lot and if any other Development of a Dwelling Unit occurs on any of the Lots obtaining access through the Shared Access Driveway, then such new Dwelling Unit must be constructed on a separately platted lot with direct frontage onto and physical access to a Regulated Roadway prior to construction of the Dwelling Unit. A duplex will not be considered a single family residence for purposes of this subparagraph.
  - (17) The owners of the Single Family Residences obtaining access through the Shared Access Driveway shall be solely responsible for all maintenance of the driveway, including maintaining any drainage structures associated with the driveway. The driveway must be maintained at all times in a condition that will permit unencumbered vehicular access by emergency vehicles.
- (B) Each of the Lots sharing the use of the Shared Access Driveway shall hold equal, indivisible and unrestricted rights in the Shared Access Driveway, which rights shall be established by recorded easement and the easement shall run with the land of each of the benefited Lots. The easement instrument shall clearly state each Lot's pro rata responsibility with respect to future maintenance or repairs of the Shared Access Driveway.
- (C) The Shared Access Driveway shall be no longer than one quarter mile in length and must have a minimum distance of (a) 200 feet from any other driveway entering onto the Regulated Roadway and (b) 500 feet from any other Shared Access Driveway.
- (D) The Shared Access Driveway shall have a name or designation approved by the County "911" Coordinator and a separate "911" address shall be established as for each Lot which relies on a Shared Access Driveway for access.
- (E) Up to three (3) Lots not having independent access to a Regulated Roadway may share a Shared Access Driveway with up to two (2) Lots having independent access to a Regulated Roadway if all other requirements of this are met and all Lots using or adjacent to the Shared Access Driveway are larger than five acres in size and restricted by Plat note limiting development to one single family residence per Lot and prohibiting TCEQ Regulated Development.

### **§5.08. Coordination with "911" Addressing System**

If not previously established, all Applications for Development Authorization submitted to the County that include a new or altered Regulated Roadway, shared access easement, or a shared access driveway shall obtain approval for the names and/or designations for such roadways, easements or driveways from the County "911" Coordinator, in accordance with Chapter 701, Subchapter 16. The Applicant shall also establish a "911" address for all lots or components of the development served by a Regulated Roadway, shared access easement or shared access driveway associated with that development, in accordance with Chapter 701, Subchapter 16.

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**§5.09. Speed Limits for Regulated Roadways**

- (A) If not previously established, all Applications for Development Authorization submitted to the County that include a new or altered Regulated Roadway, shared access easement, or a shared access driveway shall establish an appropriate maximum speed limit for such roadways, easements or driveways. Such established maximum speed limits shall not be greater than the maximum speed limits authorized under TTC Chapter 545.352 but shall not be less than the lower maximum speed limits authorized under TTC Chapter 545.355 for the specific type of roadway under consideration. For roadways with speed limits that are established at less than the maximum speed limits authorized under TTC Chapter 545.352, the Roadway Design Report shall include an explanation of the reasons for the reduced maximum speed limits.
- (B) Speed limits shall not take effect until such time as the County approves and issues the Development Authorization under which those speed limits were established and signage indicating the established speed limit(s) is actually posted along the roadway.

**§5.10. Construction Quality Assurance for Regulated Roadways.**

The Permittee shall submit document all required inspections and tests at the completion of each phase of construction of the roadway. Construction Quality Assurance testing shall comply with the following:

- (A) Tests on all components of the pavement system, including plasticity index, tests for compacted density, depth of base, distribution of asphalt, and other quality assurance tests required by the County's adopted roadway construction specifications.
- (B) It is the responsibility of the Permittee to coordinate all inspections and laboratory tests with the Department and not to proceed with construction until proper inspections and tests have been obtained.
- (C) Any laboratory tests and test holes shall be at the expense of the Permittee.
- (D) In no event will any subsequent component be placed on the roadway until the underlying components have been approved in writing by the Department.

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**Table 721.01 – Design Requirements Based on Roadway Classification**

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(degrees)							
Max. Grade (%):	11	11	10	10	9	8	**
Min. Street Centerline offset at Adjacent Intersections (ft)	110	125	110	125	125	125	**
Min. Stopping Sight Distance (ft)	175	175	175	250	350	550	**
Min. Intersection Sight Distance (ft)	250	250	250	350	450	550	**
Ditch Foreslope Grade	4:01	4:01	4:01	5:01	5:01	6:01	**
Ditch Backslope Grade	3:01	3:01	3:01	4:01	4:01	4:01	**
Min. Cul-de-sac ROW/ Pavement Radius (ft)	70/45	70/45	70/45	70/45	N/A	N/A	N/A
Min. "T" End ROW/ Pavement Length (ft)	80/65	80/65	80/65	N/A	N/A	N/A	N/A
Min. "T" End ROW/ Pavement Width & Radius (ft)***	40/20	40/20	40/20	N/A	N/A	N/A	N/A
Min. Lot Frontage (ft)	30	50	30	100	150	150	150
Min. Drive Spacing (ft)	50	50	50	75	120	120	120

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\*\* Noted elements shall be approved by the County Engineer on a case-by-case basis.

\*\*\* "T" End Designs must conform to minimum AASHTO Standards

AASHTO – American Association of State Highway and Transportation Officials

Building Setback – Minimum building setback, in feet, applicable to each side of the roadway

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**CHAPTER 735 - FLOOD DAMAGE PREVENTION**

***Sub-Chapter 5 - Provisions for Flood Hazard Reduction***

**§5.03. Standards for Subdivision Proposals**

- (A) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with this Chapter, and shall be approved by the County Floodplain Administrator prior to issuance of the Development Authorization by the County. Plat specifications and details for submission will be governed by Chapter 705 and other applicable provisions of these Regulations.
- (B) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet the requirements this Chapter.
- (C) 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 are greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to this Chapter.
- (D) All subdivision plats shall have the Floodplain and Floodway clearly delineated on the plat and, where appropriate, shall have the lowest floor elevations for all lots located within Flood Hazard Areas.
- (E) All subdivision Applications including the placement of manufactured home parks and subdivisions shall include provisions for adequate drainage as required under Chapter 725, to reduce exposure to flood hazards.
- (F) All subdivision Applications 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.
- (G) All subdivision Applications which include land which is encroached by areas of special flood hazard, must include the placement of a permanent benchmark indicating the elevation relative to mean sea level. The benchmark must be located within the platted property, and must be indicated on the subdivision plat.

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**ORDER ADOPTING RULES OF HAYS COUNTY, TEXAS  
FOR ON-SITE SEWAGE FACILITIES**

**Section 10. AMENDMENTS.**

The County of Hays, Texas, wishing to adopt more stringent Rules for its On-Site Sewage Facilities, understands that the more stringent local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirements if local rules provide greater public health and safety protection. Listed below are the more stringent Rules adopted by Hays County, Texas.

**A. Definitions.**

The following terms shall have the corresponding meaning:

1. Dwelling Unit Equivalent – An estimated quantity of wastewater from a non-residential source that is equivalent to that generated from a three (3) bedroom residential dwelling unit, or 300 gallons per day, whichever is greater.
2. Qualified OSSF Inspector – An individual with a current license from the TCEQ as an Installer or a Maintenance Provider, as those terms are defined under 30 TAC Chapter 285 who also holds a current National Association of Wastewater Transporters (NAWT) or National Sanitation Foundation (NSF) certification as an on-site sewage facility inspector within one year of the effective date of these rules. Texas licensed professional engineers and Texas registered sanitarians may also inspect existing OSSFs, subject to the requirements of 30 TAC Chapter 285.
3. Department – Hays County Development Services Division
4. Groundwater Supply System – Any water supply system that obtains greater than one-third of its overall supply from Groundwater. This classification of water supply systems is further subdivided into Public Groundwater Supply Systems and Private Groundwater Supply Systems. Public Groundwater Supply Systems are any systems designated a Public Water System by the Texas Commission on Environmental Quality. Private Groundwater Supply Systems are any systems that do not qualify as a Public Groundwater Supply System, including, but not limited to, individual water supply wells.
5. Surface or Rainwater Collection System – A water supply system in which greater than two-thirds of the total water obtained is from a “surface” source, rainwater collection, or groundwater from an aquifer that is located entirely outside of Hays County. In the event any water supply system relies on Groundwater for greater than one-third, but not more than one-half, of its total water supply, the Commissioners Court may, on a case-by-case basis, approve an application to consider such water supply system to be a “Surface or Rainwater Collection System.”
6. Private Well – Any water well other than a Public Well. This definition includes Non-Public Local Groundwater Supply Systems which are Local Groundwater Supply

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Systems that do not qualify as a Public Local Groundwater Supply System, including, but not limited to individual water supply wells.

7. Public Well – A water well providing piped water for human consumption and defined as a "Community Water System" or a "Public Water System" under Chapter 290 of the Texas Administrative Code.
8. Rainwater Harvesting System – An individual potable water supply system approved by the Department and having rainwater as its source and designed to provide for any or all of the domestic water requirements, including irrigation.

### **D. Facility Planning**

All of the terms and provisions of 30 TAC §285.4 are incorporated within the Rules of Hays County except as expressly amended below.

1. Land Planning, Site Evaluation and Minimum Lot Sizing. The following requirements shall apply to all lots on which an OSSF is to be utilized:
  - (A) A platted or unplatted single family residential lot shall have a surface area of at least the acreage designated in Table 10-1 below.
  - (B) Small Multi-Unit Residential Developments. Multi-unit residential developments with four or fewer individual dwelling units, including duplexes, may utilize lots smaller than the acreages set forth in Table 10-1, provided:
    - (1) site specific evaluation materials, for a central system or individual systems, are prepared by a Texas licensed professional engineer or a Texas registered professional sanitarian and submitted to the Department for review and approval; and,
    - (2) there is no more than one (1) dwelling unit for each TCEQ minimum lot acreage and no more than two (2) dwelling units for each minimum lot size as designated in Table 10-1 below.
  - (C) Other Multi-unit Residential Developments and Non-Residential Developments. Platted or unplatted lots used for multi-unit residential developments with more than four dwelling units, including apartment complexes, groups of rental dwelling units and lots used for non-residential purposes (e.g. office, commercial, industrial or institutional uses) producing domestic wastewater:
    - (1) shall have a minimum lot size of 1.0 acres and a total surface acreage of at least one (1) acre for each dwelling unit equivalent (DUE) per day; and,
    - (2) the on-site sewage facilities for these developments shall be designed based on site specific evaluation materials.
  - (D) OSSFs serving Manufactured Home Rental Communities and Recreational Vehicle Parks where spaces are rented or leased and are not subdivided for

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individual sale may be designed in accordance with Subsection (1)(C) above of this Section D.

(E) **Condominium Complexes.** Condominium complexes utilizing on-site sewage facilities shall meet the following requirements:

- (1) The Owner applying for the OSSF permit shall identify the person who will be legally responsible for compliance with all applicable OSSF requirements. The application for OSSF permit shall include a sworn (notarized) statement from such legally responsible person attesting that such person accepts full legal responsibility for compliance with all applicable OSSF requirements. In the event the designated legally responsible party fails or refuses to comply with any applicable OSSF requirements, the Department may institute appropriate enforcement action against that person, or against one or more of the following parties who the Department determines to be responsible for the noncompliance: (i) the owner or manager of the condominium complex; (ii) the owner of one or more individual condominium units; (iii) the legally constituted condominium owners association for that condominium; (iv) a maintenance company/provider contracted to provide maintenance for the noncompliant OSSF.
- (2) All requirements set forth in this Section D apply to condominium complexes.
- (3) Each individual condominium unit shall be equipped with a flow meter capable of measuring the wastewater flow from that unit or a flow meter capable of measuring the water usage for that unit.
- (4) Maintenance of the OSSF for a condominium complex is subject to the applicable maintenance, testing and reporting requirements of TCEQ's Chapter 285 Rules and all maintenance shall be provided by a Maintenance Company/Provider registered with TCEQ under such rules.

(F) Where multiple sources of water apply to one lot, the larger of the two (2) minimum lot sizes shall govern.

(G) In instances where the actual design of the OSSF system proposed for use dictates a larger minimum lot size required, such larger minimum lot size shall apply.

2. **Lot Size Averaging.** Only platted development may take advantage of these averaging provisions. The minimum acreage requirements set forth in Table 10-1 below may be obtained by averaging the size of all Lots within a platted development so long as the only Lots with acreage exceeding the minimum set forth in such table that may be included in the averaging calculation shall be:

(A) Lots reserved by plat note for use as parkland or open space, or a private greenbelt in which all owners or residents of the subdivision hold an equal, unrestricted and indivisible right of access and use; or,

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(B) Lots larger than five acres restricted by a plat note prohibiting all development other than one Single Family Residence or other development excluded from the term "Regulated Activities" under the Edwards Aquifer Rules of the TCEQ (30 TAC Chapter 213), but without regard to the aquifer over which the development occurs.

3. Notwithstanding the averaging allowed above or anything else to the contrary in this Order, no on-site sewage facility shall be permitted on any Lot smaller than the minimum lot size permitted under Chapter 366 of the Texas Health and Safety Code and the TCEQ Regulations promulgated thereunder (30 TAC Chapter 285).

**Table 10-1 – Minimum Lot Sizes (in Acres) for OSSFs**

Location	Water Service	Advanced	Conventional	TCEQ Min.
EARZ [1]	Surface or Rainwater Collection System	1.50	2.00	1.00 [4]
EARZ	Public Groundwater Supply System [2,8]	2.50	4.50	1.00 [4]
EARZ	Private Well	3.00	5.00	1.00 [4,6]
EACZ [3]	Surface or Rainwater Collection System	1.00	1.50	0.50 [5]
EACZ	Public Groundwater Supply System	1.50	2.50	0.50 [5]
EACZ	Private Well	2.00 6.00[8]	3.00 6.00[8]	1.00 [6]
Any Other	Surface or Rainwater Collection System	0.50 1.00 [7]	1.00	0.50 [5] 1.00 [6]
Any Other	Public Groundwater Supply System	1.00	1.50	0.50 [5]
Any Other	Private Well	1.50 6.00[8]	2.00 6.00[8]	1.00 [6]

Notes:

1. Edwards Aquifer Recharge Zone as defined in 30 TAC §213
2. A Public System is a Public Water System as defined in 30 TAC §290
3. Edwards Aquifer Contributing Zone as defined in 30 TAC §213
4. TCEQ Minimum lot size as per 30 TAC §285.40(c)
5. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(A)
6. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(B)
7. Minimum lot size for use of surface application system as per 30 TAC §285.33(d)(2)
8. Applicable to new subdivisions and Manufactured Home Rental Communities served by individual private water wells located within the Priority Groundwater Management Area as defined by Texas Commission on Environmental Quality and required to demonstrate water availability as required by Hays County under the authority granted to the County under the Texas Water Code and the Texas Local Government Code.

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4. A lot may contain multiple habitable structures and qualify as a single family residential lot if it meets the following criteria:
  - (A) In addition to the primary dwelling unit, the lot may be occupied by additional habitable structures or dwelling units (e.g. garage apartments, pool houses, guest cottages, etc.) with useable floor space less than fifty percent (50%) of the floor space of the primary dwelling unit;
  - (B) The additional habitable structures are not offered for public use or rental; and,
  - (C) All such additional habitable structures are precluded from sale or transfer separate from the primary dwelling unit.
5. Existing small lots or tracts that do not meet the minimum lot size requirements of this section and will serve one single family dwelling may be approved for an OSSF in accordance with the following requirements:
  - (A) Any lot, regardless of the date of platting or subdivision, must be of adequate size to accommodate the proposed system, including an effluent dispersal area that complies with effluent loading requirements of 30 TAC §285.91, Table I, and the system must be designed and operated in accordance with the remaining requirements of 30 TAC §285.
  - (B) For lots or tracts platted or subdivided before March 14, 1977, an OSSF may be permitted on a lot of any size.
  - (C) For lots or tracts platted or subdivided on or after March 14, 1977, but before June 14, 1984, an OSSF may be permitted on a lot of at least twenty thousand (20,000) square feet in size;
  - (D) For lots or tracts platted or subdivided on or after June 15, 1984, but before August 29, 1997;
    - (1) If the lot has a soil depth of less than four (4) feet to bedrock or to groundwater or if the percolation rate exceeds forty five (45) minutes per one (1) inch, the minimum lot size shall be thirty thousand (30,000) square feet; or,
    - (2) If the lot has both a soil depth of less than four (4) feet to bedrock or to groundwater and a percolation rate exceeding forty five (45) minutes per one (1) inch, the minimum lot size shall be forty thousand (40,000) square feet.
  - (E) For lots or tracts platted or subdivided on or after June 15, 1984, but before August 29, 1997, an OSSF may be permitted on a lot with a minimum size in compliance with 30 TAC §285.4 or §285.40, as applicable, which meets the requirements of 30 TAC §285.31 and the Hays County Regulations that were in effect at the time.

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(F) For lots or tracts platted or subdivided on or after August 29, 1997, and before the effective date of this Order, an OSSF may be permitted on a lot with a minimum size in compliance with Table 10-1 above, which meets the requirements of 30 TAC §285.31. An exception is the Edwards Aquifer Contributing Zone which only applies to the Barton Springs Segment of the Contributing Zone.

### **G. Innovative Development**

Innovative development, such as "planned unit development" style developments, are encouraged and will be considered on a case by case basis, upon the submission of the following with a preliminary plan application for subdivision approval:

1. Site Evaluation Materials demonstrating that such an innovative development is appropriate in light of lot sizes, soil or other conditions;
2. Site Specific Materials; and,
3. Site Plan to be recorded with Record Plat, which shall state the future development of the Property shall be in accordance with the Site Plan. The Site Plan shall designate the type of development permitted on each Lot, the location of buildings, paved areas, green belts and on-site sewage facilities (including drainage fields) on each Lot; and all other materials required under 285.30 of the Rules, as applicable. As provided in Section 285.6 of the Rules, cluster systems are not authorized.

The Commissioners Court may approve an application for innovative development permitting minimum lot acreage below those required in Table 10-1 upon a finding that the proposed development will provide equivalent protection of the public health and environment as development in accordance with these Regulations and that the lot acreage meet the TCEQ minimum.