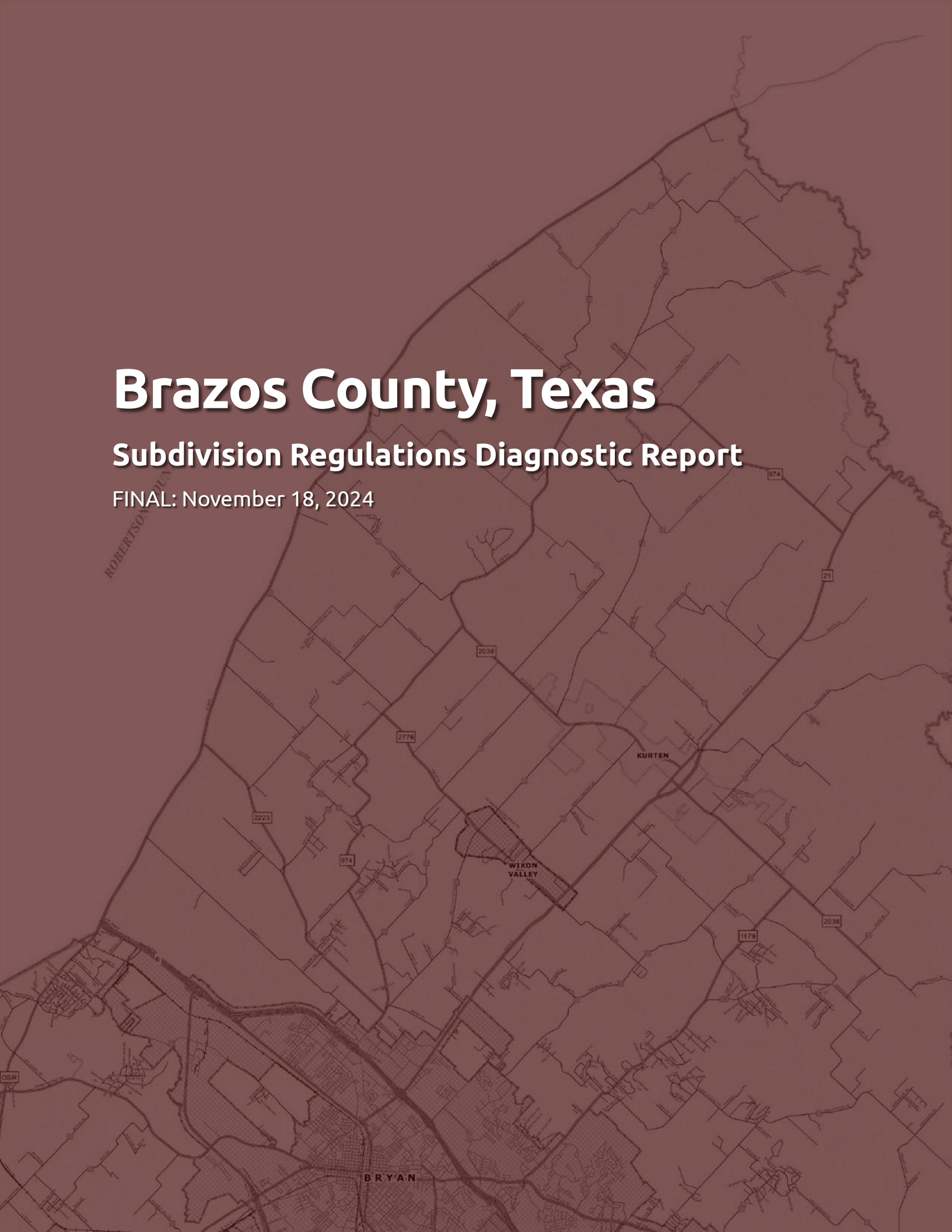




Brazos County, Texas

Subdivision Regulations Diagnostic Report

FINAL: November 18, 2024

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Introduction

Project Overview

The Diagnostic Report focuses on the initial phase of Brazos County's potential Subdivision Regulation rewrite process. It reflects input from County staff, elected officials, including the County Judge, staff members of the Cities of Bryan and College Station, and members of the development community. The report provides an analysis of the County's current Subdivision Regulations and suggests options to consider during future phases to revise or rewrite the existing Subdivision Regulations.

The report defines issues arising out of the County's current codes and practices against the backdrop of state law changes and development pressures in Brazos County. It includes an outline of proposed recommendations on how the County's procedures and regulations can be more effective and user-friendly. It also includes opportunities the County can pursue given limited budgets, resources, and staff capacity.

Overall Process

The assessment of the existing regulations took place in four steps:

1. Identifying and investigating issues arising from the use of Subdivision Regulations based on a review of the regulations and interviews with County stakeholders
2. Preparing an initial issues identification summary
3. Refining issues and developing creative and realistic solutions
4. Preparing the final diagnostic report

County staff's input was particularly critical to this process, as it allowed the Consultant Team to hear firsthand what was working and what was not regarding the County's development activity. Comments were tracked and compared throughout the process to help narrow down specific topics for detailed review within the existing regulations and codes.

Key Components of the Diagnostic Report

The sections of the diagnostic addressing each section and subsection of the County's Subdivision Regulations include the following components:

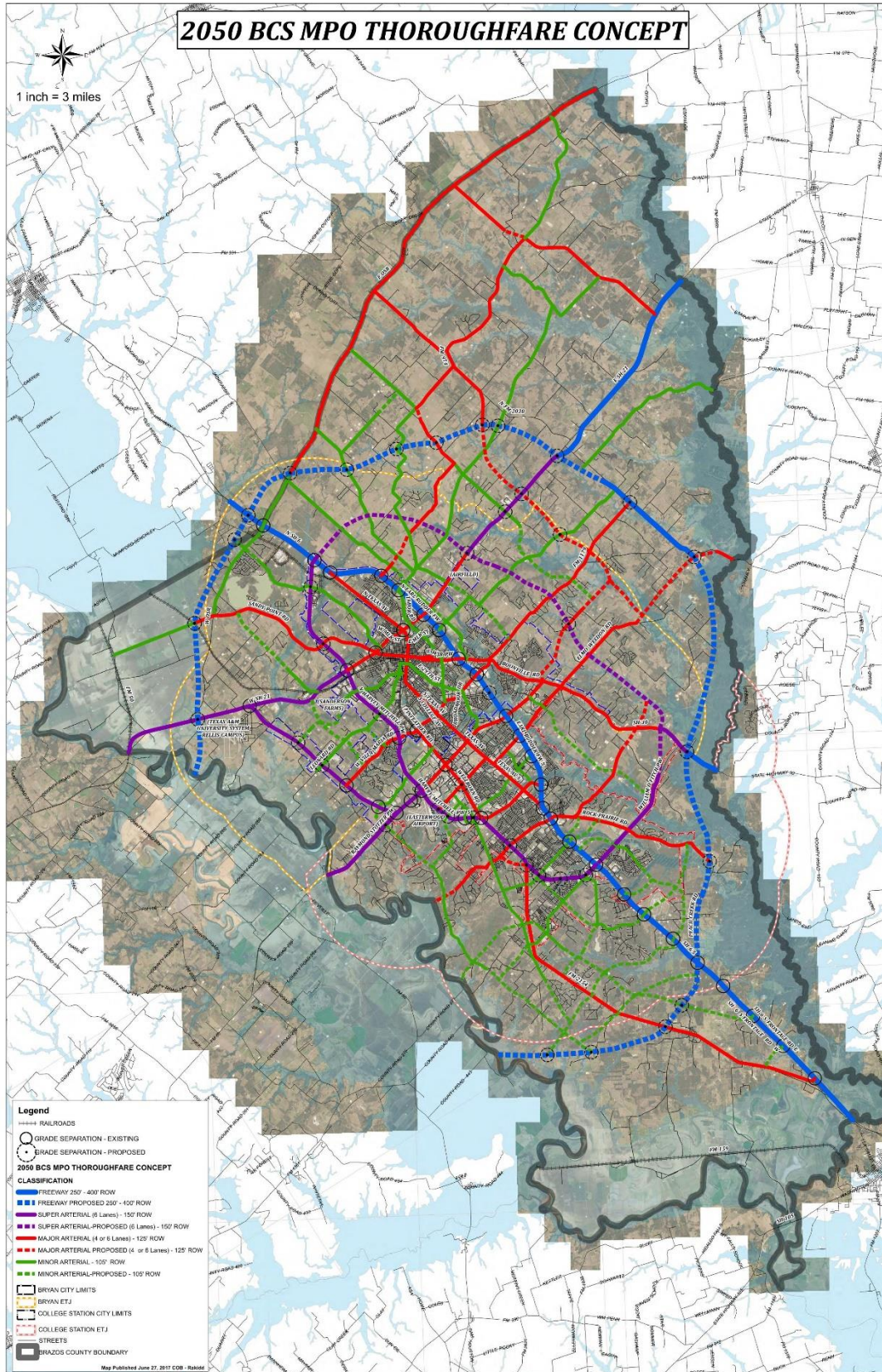
- **Priority Findings and Actions:** These findings may affect multiple sections of the County's Subdivision Regulations and address external processes and procedures related to development. These priorities encompass the issues the Commissioners Court should address as soon as possible to ensure consistent and defensible enforcement of the Subdivision Regulations.
- **Individual Section Findings and Solutions:**
 - **Findings by Section:** These are usually limited to one section or regulation. If a section is not listed, it is assumed there were no findings that require consideration.
 - **Issues Identified:** Each issue includes a brief description of the issue, relevant code references, and observations from County staff and the Consultant Team, though it is not necessarily disambiguated to describe who the observation originated from.
 - **Proposed Solutions:** Following the issue description, this report provides an analysis and recommendations section that discusses possible steps or strategies the County may employ to address the issue. This may include code amendments but may also include policy guidance if the identified issue can be addressed through changes in administering the code rather than a code update.

Adopted Plans and Policies

Bryan/College Station MPO Thoroughfare Concept

In June 2017, the Bryan/College Station Metropolitan Planning Organization (BCSMPO or MPO) adopted the 2050 Thoroughfare Concept as a guiding document for future right-of-way acquisition in the County. The Thoroughfare Concept depicts several rural and urban highway alignments, including inner and outer loops around Bryan and College Station and the future Interstate Highway 14 corridor that will eventually be constructed west of its current terminus at Interstate Highway 35.

As the platting authority for unincorporated portions of the MPO's planning area, Brazos County is responsible for securing right-of-way for future corridors during the platting process. **The Thoroughfare Concept states that "only roads considered arterial or above are shown"; this is notable because there are several references in the Subdivision Regulations to County collectors that defer to segments shown on the Thoroughfare Concept.** If the Thoroughfare Concept only depicts future arterial roads, the County has no plan it can use to reference the location of future collectors and may be limited or challenged on the ability to require right-of-way for future collector roads per Article 7, Section C.5 that are vital to the County's transportation network and mobility goals.



Interlocal Agreements

Brazos County has entered into Interlocal Agreements (ILAs) both with the City of Bryan and the City of College Station to divide platting authority. The main concerns with these ILAs are their inconsistency with the County's Subdivision Regulations and their incomplete execution. The agreements give exclusive platting authority to the City of Bryan and the City of College Station, including their extraterritorial jurisdiction (ETJ). However, in practice, plat applications are being submitted to both the Cities and the County for approval. As a result, these applications are shared between the Cities and the County, which also leads to interpretation and approval issues.

The Cities serve as the first point of contact for subdivision plats in the ETJ and have the ability to review applications quickly. For example, the City of Bryan usually completes plat reviews in three business days. However, the County is not able to complete the reviews in the same amount of time due to limited staff and resources. Nevertheless, Brazos County is interested in having full platting authority in the ETJ since it oversees all infrastructure. Furthermore, there is also confusion regarding the County's and Cities' roles and responsibilities. The County expects all applications in ETJs to follow its standards. But the Cities commonly review civil plans in the ETJ despite the lack of inspection or maintenance responsibilities.

These ILAs were established in the 1990s. They have not been updated and do not reflect the County Subdivision Regulations updated in 2016. Currently, application reviews are based on the stricter standard between the regulations from the Cities or the County. **There is a need to clearly define which standard, the Brazos County Engineering Design Guideline, the Bryan/College Station Unified Design Guidelines, or either City's regulations, is applied to subdivision applications to minimize confusion.**

Brazos County Engineering Design Guidelines

Based on stakeholder feedback, these engineering guidelines are incomplete or do not provide sufficient support to the Subdivision Regulations, creating confusion as to the applicability of the Subdivision Regulations, Brazos County Engineering Design Guidelines (BCEDG), city standards (in the ETJ), and Bryan/College Station Unified Design Guidelines (see below). A key issue of the BCEDG is its inconsistency with the Bryan/College Station Unified Design Guidelines. The BCEDG references the Bryan/College Station guidelines in various sections; however, the Cities' guidelines are not interchangeable with the BCEDG. The County should maintain consistency among the two regulations.

Bryan/College Station Unified Design Guidelines

Commonly referred to as "BCS", the Bryan/College Station Unified Design Guidelines (BCSUDG) are regional standards intended to consistently apply design standards for urban infrastructure, including streets, drainage, drinking water, and wastewater. They outline the standards accepted by both Cities to provide engineers with clear directions when designing infrastructure. The regulations were created to maintain the safety and quality of life of all users in the Bryan and College Station area, including within the Cities' ETJs. The regulations are applied by both Cities and are referenced in the Brazos County Engineering Design Guidelines.

Priority Findings and Actions

1. **Comprehensively update the Subdivision Regulations.**

After a comprehensive review of the existing Subdivision Regulations, as well as conversations with users of the existing Subdivision Regulations and development stakeholders within the County, notable issues were found with the Subdivision Regulations. These include organizational issues, such as topics that are divided over multiple sections, information that is duplicated in multiple sections, and significant use of technical language that is more appropriate in a design manual.

Content within the Subdivision Regulations should also be updated to reflect changes in state law, the replatting process, right-of-way acceptance, and platting exceptions. Finally, the Subdivision Regulations would benefit from greater use of visual aids, such as flow charts, tables, and diagrams.

Given the need for multiple updates to each major section of the Subdivision Regulations, along with issues related to the layout and organization of the ordinance itself, it is recommended that the Subdivision Regulations be comprehensively updated consistent with the recommendations found in Section 4 of this Code Diagnostic.

2. **Revise ILAs with the Cities of College Station and Bryan.**

While Brazos County has adopted ILAs with the two major cities, feedback from both the County and Cities of Bryan and College Station indicates that the actual practices of the three entities do not reflect the procedures outlined in the ILAs. Plats in the ETJs of both Cities continue to go through a hybrid approval process that involves both the County and Cities reviewing plats and infrastructure and sending them to respective commissions for approval. This practice has resulted in uncertainty and different timelines for review and approval. Because the process applies to the subdivision requirements that are more strenuous, the County is placed in the position of having to approve infrastructure it may not be able to maintain.

Changes to annexation law since the ILAs were adopted have also reduced the likelihood of cities annexing territory in the future. If large areas of the ETJ are likely to remain under County maintenance, the ILAs should be jointly updated to improve process efficiency. This would ensure that the County reviews and approves plats in ETJ areas without agreements for annexation or city infrastructure development. In addition, the infrastructure constructed in these areas would be required to meet County, rather than city, standards and no jurisdiction would be tasked with reviewing or held responsible for plans that it would not ultimately approve or maintain.

3. Adopt a County Thoroughfare Plan or addendum to the MPO Thoroughfare Concept.

Currently, Article 7, Section C.5 of the Subdivision Regulations requires that collector roadways be constructed according to the BCSMPO Thoroughfare Plan Concept and defers to that Plan to identify the location of future arterial and collector road locations. However, the current adopted BCSMPO Plan (dated June 27, 2017) addresses arterial roadways and freeways and does not include locations of future collector roads. The County should consider one of the following options to align the text of the Subdivision Regulations with the Thoroughfare Concept:

- Option #1: The County could develop its own thoroughfare plan in cooperation with the MPO that includes collector roadways, giving the County the ability to require right-of-way and construction of future collector roadways that are aligned with the MPO's Plan and future interstate corridors projected to traverse Brazos County.
- Option #2: Collaborate with the MPO to develop a unified update of the Thoroughfare Concept so that it aligns with the County's Subdivision Regulations and effectively provides the County with a plan for the future network.
- Option #3: Update the text of Article 7, Section C.5 to reference the same roadway types listed in the Thoroughfare Concept. Note that the suitability of this option to provide for an adequate County roadway network depends upon whether the arterial roadways shown on the Thoroughfare Concept, particularly the Minor Arterials, can adequately function as collector roadways in the network hierarchy shown on the Thoroughfare Concept.
- Option #4: Update the design standards in the BCEDG or Subdivision Regulations to provide adequate guidance on the minimum section width and profile of collector roads as well as the required spacing and relationship to arterial roadways shown on the Thoroughfare Concept.

4. Clearly define the applicability of separate-but-related standards and documents.

The Subdivision Regulations are currently unclear and inconsistent about which standards and documents apply and how they should be administered. To resolve this lack of clarity and inconsistency, the Subdivision Regulations should list in tabular format which standards govern certain aspects of development outside of the ETJ. This table should clearly indicate which processes adhere to the Subdivision Regulations, the BCEDG, or the BCUDG (commonly known as "BCS").

This organized approach will help developers and County officials quickly identify the applicable standards and ensure proper compliance with the appropriate regulations.

5. Revise BCEDG as a companion document to the Subdivision Regulations.

The BCEDG have been in use for several years but their effectiveness has been undermined by inconsistent enforcement. This has created issues with cross-referencing, particularly when the Subdivision Regulations cite sections of the engineering standards that do not exist. A full update to the BCEDG should be conducted when the Subdivision Regulations are updated so that all necessary standards are accounted for and are not duplicated between the two documents.

6. Express and clarify County policy regarding utilities in County right-of-way.

Currently, the Subdivision Regulations prohibit the location or placing of underground utilities in County right-of-way. The requirement not only applies to new utilities, but in some cases has required the moving of existing infrastructure outside the right-of-way, including infrastructure intended for future use such as water lines. This requirement and resultant process has contributed to significant lead times when County roads are constructed or widened. These policies or requirements may also need to be realigned with state statutes allowing for use of County Right-of-Way (*Texas Local Government Code Chapter 552.104*; see also, *Texas Utilities Code*, *Texas Water Code*.)

The County should consider reasonable and legal administrative allowances for utility locations within the right-of-way and allow flexibility in cases where strict adherence may lead to significant relocation costs or conflicts with developers. Additionally, in cases where a natural boundary or other considerations make future extension of roadways infeasible, the County should consider building in flexibility to the requirement to extend roadways to the limits of subdivisions to minimize unnecessary expenses and disruptions.

7. Include a legal process to establish vesting and fair notice claims.

The current Subdivision Regulations do not contain adequate language addressing when a development application is considered a “permit” under TLGC *Chapter 245*. The mechanism for establishing a permit (usually a plat) should follow Chapter 245 and provide adequate language and flexibility for the County to determine whether a development has been vested under certain rights and regulations and which standards apply to the development. Another Chapter 245 issue is the expiration of approved plats and plans that have not been filed or completed. The regulations should clearly distinguish between developments that are dormant or inactive and those that have experienced delays but continue to meet the *Chapter 245.005* definition of “progress”.

8. Consolidate all language governing processes and procedures.

The current Subdivision Regulations have different processes and procedures developers must follow, but these are spread throughout the document, making it difficult to locate all relevant information. To improve efficiency and clarity, the County should create a centralized approval authority list and incorporate process aids such as flow charts and tables to streamline the process.

County staff indicated that exceptions to platting might be misapplied, with some applicants going through a variance process that may not be supported by State Law under the consanguinity clause in TLGC *Chapter 232.0015*. To prevent abuse of the exceptions process, the County should also establish an application for a plat waiver or exemption. Example: Williamson County requires an affidavit and copy of deeds for each property.

9. Improve and streamline the process to construct and inspect infrastructure.

Several problems were noted with the construction and inspection process, with comments originating from County staff and the development community. Issues noted include difficulty ensuring that roadways are constructed to County standards, difficulty resolving all outstanding deficiencies from the inspection process (even, or particularly, with punch list items near the point of acceptance) and permitting and inspection of improvements that link to infrastructure such as driveway approaches and culverts.

In some cases, resolving these issues may involve introducing greater flexibility into design specifications or construction to account for different scenarios. The process of construction and acceptance may also need to be revised to ensure that sufficient access is being provided before site construction occurs and that responsibility for completing improvements is clearly assigned. Lastly, the point at which acceptance of right-of-way and road infrastructure occurs should be specified to prevent the County from assuming control or maintenance of improvements, and being required to provide access to those improvements, before completion.

As with many counties in Texas, Brazos County is limited in its ability to deploy staff to perform improvement inspections. The County should further investigate the use of third-party inspectors for infrastructure improvements and private construction (per TLGC *Chapter 233*) as part of future updates to the Subdivision Regulations.

10. Revise how the County distinguishes between rural and urban development types.

To ensure that development standards accurately reflect current ownership and maintenance realities, the County should revise the specific criteria used to differentiate between urban and rural development types. The distinction should be updated to include the requirement that concrete streets must be supported by an agreement or separate entity, such as a municipal utility district (MUD), a municipal management district (MMD), a public improvement district (PID), or a development agreement giving a city the ability to annex the area for maintenance. External districts (e.g., MUD, MMD, PID) can recoup the cost of infrastructure and improvement maintenance through tax assessments levied directly on homes and commercial entities within the district's boundaries.

11. Clarify County drainage requirements and expectations.

The current Subdivision Regulations are unclear on what the proper requirements and expectations of the County are when it comes to drainage management. To ensure effective drainage management for roads designated for County maintenance, it is recommended that drainage solutions, such as ditches, swales, or detention facilities, be implemented on private property. Culvert pipes and driveways should remain as private facilities within the right-of-way; however, the County should reserve the right to clear any blockages or make repairs. In such cases, the County may place a lien on the property owner to recover the costs of these actions.

12. Study and improve the regulation of floodplains and other drainage infrastructure to address adverse impacts caused by new development.

During interviews with the County and Cities of Bryan and College Station, certain residential developments were identified as being subject to flooding despite being constructed recently under the current Subdivision Regulations. To effectively manage drainage and flooding concerns in the area, it is recommended that the County pursue funding for comprehensive floodplain studies in rural areas. These studies should focus on evaluating creeks and tributaries to determine their capacity for sufficient discharge. Assessing these concerns will facilitate the identification of properties that may be exempt from detention requirements due to their ability to adequately manage runoff.

Additionally, the County may consider participating in creating a drainage district per Texas Water Code *Chapter 56*. Drainage districts are special districts created to control and supervise the construction and maintenance of canals, drains, ditches, levees, and other drainage improvements needed to protect public health or establish a public benefit or utility. Improvements are generally funded through the issuance of bonds and subsequent levying of taxes. Coordination between local property owners, municipalities, and the Commissioners Court is essential for the creation and ongoing administration of any drainage district and associated improvements.

13. Consolidate and clarify County participation in infrastructure construction and oversizing.

Stakeholder interviews revealed that many existing County roads are not being upgraded to County standards during development, resulting in large amounts of traffic utilizing inadequate gravel roads. The Subdivision Regulations should establish clear and non-contradictory language that describes the expectation of County participation in infrastructure oversizing during private development. The participation language should be specific enough to assign responsibility to the developer to construct its share of improvements but flexible enough not to bind the County to an exact cost share for each project.

14. Distinguish between County-maintained improvements and HOA-maintained improvements.

The Subdivision Regulations should clarify maintenance responsibilities that fall on the County and those that should be maintained by a private or other public entity. Clarification on which improvements may be the responsibility of another entity, such as a Homeowners Association (HOA), should be outlined to assign the proper responsibility and prevent the County from taking over maintenance of facilities that primarily benefit private property.

15. Establish a preferred form of fiscal security for construction.

It is recommended that the County establish a preferred form of fiscal security centered around recording of a final plat. Under this system, preliminary acceptance of construction work will be required prior to the approval of a final plat. Full acceptance should be required prior to filing or recording the final plat. Alternative methods may be used in certain circumstances (such as smaller projects or commercial projects) but should be spelled out clearly to not subject the County to an elongated construction and inspection period in which the developer has little incentive to finish infrastructure improvements.

Additionally, in 2019, the Texas Legislature passed legislation (HB 3167) to allow an applicant to not file a preliminary plat or construction plans if the applicant decides, at their own discretion, to submit a final plat with either a bond or financial guarantee in lieu of a bond for the proper construction of the roads and streets in and drainage requirements for the subdivision. The alternative plat approval process authorized by HB 3167 should be established with all necessary processes and procedures.

Individual Section Findings and Solutions

1. Overall Findings

1.1. Uniformly reference all applicable regulations.

Issue Identified

The Subdivision Regulations refer to external regulations across various Articles and sections, resulting in unclear applicability and enforcement. Namely, references often switch between the BCEDG and the BCSUDG. At the time of this writing, the BCSUDG is currently being revised; references to these standards, as appropriate, should be reviewed for continuity with ongoing revisions.

Additionally, references to all other applicable County ordinances are inconsistent or missing. References to these external regulations, such as the County's Floodplain Ordinance, should be available clearly and concisely.

Proposed Solution(s)

- A. Include consistent and clear references at the beginning of each Article to provide the reader and staff with clear expectations and applicability.
- B. Review all references to the BCEDG and BCSUDG to confirm the intended standards are present, desirable, and enforceable by County staff.
- C. Ensure that all references to external regulations are accompanied by “as amended” and “unless otherwise stated” to keep references evergreen as regulations are adapted over time.

1.2. Regulate subdivision design and uses to the fullest extent authorized by state law.

Issue Identified

While the TLGC restricts the extent to which counties may regulate land uses and design, there are a few use-specific standards and restrictions the County is authorized to regulate. *Chapter 233* (County Regulation of Housing and Other Structures), *Chapter 234* (County Regulation of Businesses and Occupations), and *Chapter 243* (Municipal and County Authority to Regulate Sexually Oriented Business) grant Brazos County with use-specific regulations not currently accounted for in the Subdivision Regulations.

The 86th Legislature adopted *Section 232.110* of the TLGC in 2019, allowing the County to require developers to bear a portion of the costs of County infrastructure improvements associated with development. This provision was not found in the Subdivision Regulations.

Proposed Solution(s)

- A. Adopt the use-specific regulations afforded by Chapters 233, 234, and 243 of the TLGC into the Subdivision Regulations and establish a permitting process for ease of review and enforcement.

- B. Adopt Section 232.110 into the Subdivision Regulations, including defining what Brazos County considers “county infrastructure.” Establish a process for determining apportionment costs through the subdivision process.

1.3. Relocate the Appendices and other technical requirements to separate, standalone documents.

Issue Identified

The Subdivision Regulations’ Appendices include content related to application checklists, forms, and content (Appendices A, D, C, and G), fees (Appendix B), and other regulatory information. Application content and requirements are best located in a separate document or manual for ease of alteration and distribution.

Likewise, various design criteria and inspection processes are codified in the Subdivision Regulations (Example: Article 11, Section B). This information is best located in external design criteria manuals (e.g., the BCEDG or BCSUDG) for ease of alteration and adaptability.

Proposed Solution(s)

- A. Establish a centralized document with all application requirements and fees, such as a Brazos County Unified Development Handbook.
- B. Create explicit references to external application documents in the Subdivision Regulations, including provisions that applications must be made correctly and holistically per external documents to be considered complete.
- C. Relocate and reference design criteria for infrastructure and inspection procedures to external policy documents.

1.4. Revise the regulations’ hierarchy and provide clarity for sections and subsections.

Issue Identified

The hierarchy of provisions is inconsistently applied throughout. For example, Article 1 follows the 1.A.1.a. hierarchy, while Article 3 includes a 1.A.i. hierarchy. Additionally, section and subsection headings inconsistently include topic headings, providing the user little context to the section’s content.

Proposed Solution(s)

- A. Establish a consistent hierarchy across all Articles in the Subdivision Regulations, and specify the section’s content briefly in each heading title:

Article	01.
Section	A.
Subsection	(1)
Item	a.
Subitem	i.

1.5. Utilize neutral pronouns for people and individuals.

Issue Identified

Gender-specific terms (e.g., his/her, his) are used throughout the Subdivision Regulations when referring to individuals involved in the development process. For example, Article 10, Section D.2.b states that “the offer of letter of credit in lieu of bond shall be accompanied by a letter of credit surety agreement signed by the Developer or his agent.” Gender-specific terms result in inconsistencies between regulatory language and real-life application.

Proposed Solution(s)

- A. Utilize neutral pronouns (e.g., they/their) or eliminate when possible (“developer’s agent” or “designee”) when referring to specific individuals and officials.

1.6. Include additional diagrams and imagery and review for legibility.

Issue Identified

The Subdivision Regulations do not rely heavily on diagrams or imagery to illustrate requirements or processes. In general, graphics are preferred when illustrating measurement requirements and application procedures. Additionally, some graphics used in the Subdivision Regulations, like the Lot Types definition graphic, are blurry and illegible.

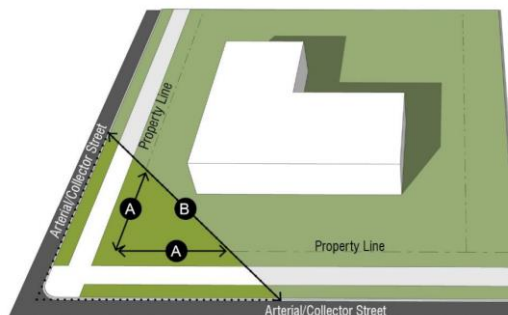


Figure 2. Example Graphic (Sight Triangle)

Proposed Solution(s)

- A. Implement additional flow charts and procedural graphics when possible (Example: Article 10).
- B. Review existing graphics for consistency with updated regulations and legibility.
- C. Cross-reference images within the Subdivision Regulations, where applicable.

1.7. Reference state law verbatim, where applicable.

Issue Identified

TLGC references are made throughout the Subdivision Regulations; however, references are often abbreviated from the actual language included in the statute. Inconsistencies may result in conflicting provisions.

Likewise, there are a few instances where references to the TLGC are warranted but not provided (Example: Article 2, definition of “Replat”).

Proposed Solution(s)

- A. Align definitions and other terminology with the TLGC where possible to prevent conflicts.
- B. Reference the TLGC verbatim, particularly regarding platting procedures and approval timelines.
- C. Include hyperlinks to specific TLGC sections when referenced (Example: <https://statutes.capitol.texas.gov/Docs/LG/htm/LG.232.htm#232.0015> links directly to Chapter 232, Section 232.0015. Exceptions to Plat Requirement).

1.8. Review language choice for brevity and clarity.

Issue Identified

At times, the language choice throughout the Subdivision Regulations is lengthy and overly technical (Example: Article 10, Section A.6, use of the word “abeyance”). Lengthier and technical text results in a more difficult document to read and administer across all audiences.

Proposed Solution(s)

- A. Revise language choice to favor fewer, more conventional language rather than lengthy technical alternatives (Example: Definition of a cul-de-sac, “A street having but one (1) outlet...”).

1.9. Reorganize or consolidate similar content.

Issue Identified

Several Articles and Sections throughout the Subdivision Regulations address similar content, causing difficulty in determining all the necessary and applicable regulations related to a topic. For example, Article 12 is related to but disconnected from material in Articles 10 and 11, making it difficult to know if the reader is receiving all relevant information about construction and acceptance.

Proposed Solution(s)

- A. Consolidate the Subdivision Regulations by topic, generally grouped by (1) general provisions and authority, (2) subdivision types, processes, and standards, (3) development and construction applications, processes, and standards, (4) relief procedures, and (5) definitions.

- B. Cross-reference applicable Articles and Sections when referenced across the Subdivision Regulations for ease of reference.

1.10. Update regulations for consistency with recent changes to state law.

Issue Identified

Recent legislatures have drastically changed the dynamic between counties and their cities, mainly related to ETJs and voluntary annexations. Additionally, mandatory approval timelines have been imposed for platting applications and other permits that differ from the County's adopted processes. Consistency with state regulations is important to prevent unwanted development outcomes or accidental complacency related to application approvals.

Proposed Solution(s)

- A. Revise the County's ILAs within all ETJs to affirm the applicable Subdivision Regulations and expectations should property owners voluntarily remove themselves from the cities' subdivision purview.
- B. Consider establishing administrative approval for specific or all plat types as permitted by *Section 232.0022* of the TLGC.
- C. Adopt the state-mandated approval timeline as established in *Section 232.0025* of the TLGC.

2. General Provisions (Article 1)

2.1. Establish clear authority for different County officials and bodies.

Issue Identified

No centralized location within the Subdivision Regulations identifies all County staff, officials, or bodies and their respective approval authorities. This leads to confusion when determining the proper approval procedures for different application types.

Proposed Solution(s)

- A. Develop a matrix or graphic (refer to Figure 3) that lists all County approval bodies (such as the County Engineer, Inspector, Clerk, Commissioners Court, or their representatives) and specifies the applications or actions for which they are responsible for providing recommendations, making decisions, or handling appeals.

APPLICATION TYPE	DECISION-MAKER	SECTION REFERENCE
SUBDIVISION PLATS		
Preliminary Plat	Commissioners Court	Sec. 3.2
Final Plat	Commissioners Court	Sec. 3.3
Amending Plat	Commissioners Court	Sec. 3.4
Plat Vacation	Commissioners Court	Sec. 3.5
Replat	Commissioners Court	Sec. 3.6
Subdivision Waiver	Commissioners Court	Sec. 6.1
Construction Plans	Commissioners Court Engineering Representative	Sec. 4.2
Subdivision Proportionality	Commissioners Court Engineering Representative	Sec. 4.1.4
Subdivision Proportionality Appeal	Commissioners Court	Sec. 6.2

Figure 3. Approval Matrix Example

3. Definitions of Terms (Article 2)

3.1. Distribute term interpretation statements to their respective definitions.

Issue Identified

At the beginning of Article 2, specific rules of interpretation are provided that are more pertinent within their respective definitions. For example, terms like “person,” “structure,” and “lot” should be defined outside of the rules of interpretation.

Proposed Solution(s)

- A. Relocate term-specific content to their respective definitions elsewhere in the Article (e.g., “Structure” within “Building”).

3.2. Clarify the source for undefined terms.

Issue Identified

Article 2 states that “words not specifically defined in Article 2 shall take their common dictionary meaning;” however, “common dictionary” is not specified and is open to interpretation.

Proposed Solution(s)

- A. Reference the Merriam-Webster’s Dictionary, 11th Edition, as amended, for clarity when defining undefined terms in the Subdivision Regulations.

3.3. Reference applicable agencies and regulations when defining terms governed by external bodies.

Issue Identified

Several definitions are provided that are otherwise governed and specified by external bodies or regulations, such as the Federal Emergency Management Agency (FEMA), Texas Commission on Environmental Quality (TCEQ), and the Texas Administrative Code (TAC). These agencies and regulations should be cited within appropriate definitions to prevent conflicts.

Proposed Solution(s)

- A. Reference FEMA in all floodplain definitions (e.g., “100-year floodplain”), and ensure that definitions align with FEMA’s interpretations and definitions.
- B. Reference the TCEQ and TAC in definitions related to on-site sanitary sewer facilities (OSSF) (e.g., “Aerobic On-site Wastewater System”).

3.4. Revise terms with modifiers to be grouped with sub-bullets for more specificity.

Issue Identified

Specific related definitions are separated alphabetically but include a modifier that could be relocated to group the terms. For example, the definition structure of “lot” types groups all related terms, while the definitions of “plat” types do not.

Proposed Solution(s)

- A. Restructure definitions with a parent term or phrase (e.g., “Plat”) to group the definitions alphabetically.

Plat, Amending

A plat filed for one or more of the following purposes (See [TLGC Section 232.011](#)):

- a. To correct an error in a course or distance shown on the preceding plat;
- b. To add a course or distance that was omitted on the preceding plat;
- c. To correct an error in a real property description shown on the preceding plat;
- d. To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- e. To correct any other type of scrivener or clerical error or omission of the previously approved plat, including lot numbers, acreage, street names, and identification of adjacent recorded plats; or
- f. To correct an error in courses and distances of lot lines between two adjacent lots if:
 - i. Both lot owners join in the application for amending the plat;
 - ii. Neither lot is abolished;
 - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iv. The amendment does not have a material adverse effect on the property rights of the other owners of the property that is the subject of the plat.

Plat, Final

The legal record of land, including a subdivision, prepared from actual field measurements and staking of identifiable points by a Surveyor to a location referenced to a survey corner. The Final Plat also establishes and records lots, right-of-way, and easements.

Plat, Preliminary

A scaled planning document that lays out the boundary, roadways, lots, topography, and infrastructure in a proposed subdivision and that provides the County with a basis for reviewing construction plans and the Final Plat (see [Section 3.01.A](#)).

Figure 4. Example of Grouping Definitions by Modifiers

3.5. Define “City.”

Issue Identified

The term “City” is used throughout the Subdivision Regulations; however, no definition is provided.

Proposed Solution(s)

- A. Define “City” potentially as “one of the incorporated municipalities whose corporate limits or extraterritorial jurisdiction is located within Brazos County, Texas.”

3.6. Consider removing the term “Cancellation Plat.”

Issue Identified

The term “Cancellation Plat” is not identified in the TLGC.

Proposed Solution(s)

- A. Revise the term “Cancellation Plat” to “Vacating Plat” for consistency with the “plat vacation” provisions authorized by *Section 232.0095* and *Sections 212.013, 014, and 015* of the TLGC.

3.7. Evaluate use-based terms for legality and efficiency.

Issue Identified

The County separates subdivision types using use-based terminology (e.g., commercial, industrial, residential). These terms may conflict with the County’s power to regulate uses outside incorporated city limits.

Proposed Solution(s)

- A. Transition subdivision types away from use-specific distinctions in favor of design-based differentiation (e.g., lots less than one acre).
- B. Consolidate subdivision types where repetition is noted (Example: the definition of “Industrial Subdivision” is identical to “Commercial Subdivision”).

3.8. Remove unnecessary specificity to minimize potential conflicts.

Issue Identified

Several definitions include unnecessary specificity that may lead to conflicts in the future. For example, the definitions of “Commissioners Court” and “County Commissioner” include specifics on the number of Commissioners on the Court.

Other definitions include regulatory language, including “Flag Lot” and “Freeboard.” Regulating design criteria within the term’s meaning rather than the appropriate Article may create conflicts with enforcement and references.

Proposed Solution(s)

- A. Remove unnecessary specificity from the definitions.

3.9. Clarify the term “County.”

Issue Identified

The definition of “County” states that “all references in these Regulations to the ‘County’ shall mean Brazos County;” however, references to other surrounding counties may be necessary in the Subdivision Regulations.

Proposed Solution(s)

- A. Include the phrase “unless otherwise specified” in the definition of ‘County’.”

3.10. Clarify the ownership and maintenance of public and private facilities, utilities, roads, and spaces.

Issue Identified

Specific definitions referencing public and private improvements do not reiterate the respective maintenance responsibilities. This may lead to misunderstandings or the use of the definition to defend County maintenance of private infrastructure.

Proposed Solution(s)

- A. Specify in the “Common Area” definition that areas are not owned or maintained by the County.
- B. Specify in the “Private Subdivision” definition that the County does not own or maintain private facilities and improvements.
- C. Revise the term “Public Sanitary Sewer System” to “Sanitary Sewer System,” as the definition includes both public and private language.
- D. Clarify in the “Public Road” definition that not all roads are available for all forms of travel and that a public road does not equate directly to a “County Road.”

3.11. Reframe the terms “Daughter” and “Parent Tract.”

Issue Identified

The terms “Daughter” and “Parent Tract” are unconventional and may result in inconsistencies with surrounding jurisdictions.

Proposed Solution(s)

- A. Transition the terms “Daughter” and “Parent Tract” to “Remainder” and “Original Tract,” respectively.

3.12. Reference the interlocal agreements in the definition of “Extraterritorial Jurisdiction (ETJ).”

Issue Identified

The definition of “Extraterritorial Jurisdiction (ETJ)” does not refer to any interlocal agreement (ILA).

Proposed Solution(s)

- A. When defining or describing the ETJ, refer to any ILAs with applicable cities. Consider the following additional language: “Please note that the boundaries and applicable regulations within each Extraterritorial Jurisdiction in the County are governed by the interlocal agreement (ILA) active with each applicable city.”

3.13. Revise the definition of “Minimum Requirements.”

Issue Identified

In the definition of “Minimum Requirements,” the first sentence is self-referential. Additionally, the second sentence vaguely suggests that minimum requirements may not be the minimum if the County believes there are particular circumstances. This may not be a defined term but instead addressed in the context of individual sections.

Proposed Solution(s)

- A. Revise or remove the definition of “Minimum Requirements” to remove ambiguity.

3.14. Remove the definition of “Peak Hour.”

Issue Identified

The definition of “Peak Hour” is overly technical and specific to one section of the Subdivision Regulations.

Proposed Solution(s)

- A. Remove the “Peak Hour” definition and address any technical requirements in the Traffic Impact Analysis (TIA) section of the Subdivision Regulations.

3.15. Revise the definition of “Regulations.”

Issue Identified

Equating “Regulations” with the Subdivision Regulations is too broad, as the text may regularly reference other sets of regulations.

Proposed Solution(s)

- A. Remove “Regulations” from the defined terms or add “unless otherwise stated” to the description.
- B. Provide a “Subdivision Regulations” definition.

3.16. Distinguish and define different types of “Right of Way.”

Issue Identified

The definition of “Right of Way” does not distinguish between other acquisition types, including prescriptive rights-of-way or reservation easements.

Proposed Solution(s)

- A. Distinguish between dedication of roads via plat and County acquisition from prescriptive rights-of-way or reservation easements.

3.17. Revise the definition of “Arterial Roads.”

Issue Identified

The definition of “Arterial Roads” specifies that they “connect one Collector or Arterial with one or more Collectors or Arterials.” Conventionally, roads that provide connections between two Collectors are also considered Collectors.

Proposed Solution(s)

- A. Revise the definition of “Arterial Roads” to exclude connections between Collectors.
- B. Review the definitions of roadway classifications for consistency with the MPO’s Thoroughfare Plan.

3.18. Reorganize “Urban” and “Rural” roadway designations.

Issue Identified

The definition of roadway classifications establishes the road hierarchy (e.g., Arterial, Collector, Local) and design specifications (e.g., Urban and Rural). It is unclear, however, if the Urban and Rural roadway specifications apply to all roadway classifications.

Proposed Solution(s)

- A. Restructure the definitions of “Roads” to indicate when Urban and Rural applications are permissible (e.g., “Urban Arterial” and “Rural Collector”).

4. General Subdivision Requirements and Exceptions (Article 3)

4.1. Evaluate the effectiveness of enforcing platting exceptions.

Issue Identified

Brazos County staff has experienced issues with uniformly applying platting exceptions, particularly related to the family exception outlined in *Section 232.0015* of the TLGC. Article 3, Section B of the Subdivision Regulations does not outline a straightforward process or timeline for filing platting exceptions.

Proposed Solution(s)

- A. Evaluate the effectiveness of enforcing the platting exceptions section and determine whether supplemental items, such as a flow chart or exemptions summary table, are needed.
- B. Clarify that the “family clause” exemption doesn’t just apply to agricultural land.
- C. Quote the exemption language stated in *Section 232.0015* of the TLGC verbatim in this section.
- D. Establish a straightforward procedure, potentially including a signed affidavit to be filed with the County, for property owners to follow to verify a platting exemption is permissible.
- E. Reorganize applicable requirements for exempted property (Article 3, Section C) into a bulleted list and restate them as applicable to all properties, whether platting is required; order the section before the exemptions section.

5. General Platting Procedure (Article 4)

5.1. Reorganize the platting procedures Article.

Issue Identified

The general platting procedures do not start off with a general purpose or applicability section, creating uncertainty regarding the Article's application. Additionally, the Article is structured in a way that skips between different plan and plat types, potentially leading to the reader missing information or applicable requirements.

Proposed Solution(s)

- A. Restructure this Article to flow from general purpose and applicability to separate processes sections with subsections for different plat types and purpose statements.
- B. Consolidate subdivision procedures and steps into one procedures article, rather than across Articles 3, 4, 5, and 6 of the Subdivision Regulations.
- C. Establish a plat "Approval Procedures" section to identify proper filing and recording processes based on different plat types.

5.2. Consider shortening the application expiration date.

Issue Identified

Subdivision Regulations Article 4, Section A.5.h states that "an application shall expire five (5) years after the date of the Application if the project becomes dormant, as defined by the Texas Local Government Code, as amended." *Section 245.005* of the TLGC states that "a regulatory agency may enact an ordinance, rule, or regulation that places an expiration date of not less than two years on an individual permit if no progress has been made toward completion of the project."

Proposed Solution(s)

- A. Consider reducing the expiration timeline for an application to two years in accordance with the TLGC.
- B. Define what qualifies as "progress [made] toward completion of the project," as stated in the TLGC, to aid in determining a dormant project.
- C. Establish a formal notification process for dormant projects for transparency and enforceability of application expiration dates.

5.3. Establish administrative flexibility for application extensions.

Issue Identified

Article 4, Section A.5.n grants the Commissioners Court the authority to authorize a single six-month extension to unfilled final plats. This may cause procedural problems by requiring Court action due to limited meeting times.

Proposed Solution(s)

- A. Rather than a single extension being available, consider providing administrative flexibility and Court appellate authority to grant extensions.

5.4. Establish the alternative platting process authorized by House Bill 3167.

Issue Identified

In 2019, the Texas Legislature passed legislation (HB 3167) to allow an applicant to not file a preliminary plat or construction plans if the applicant decides, at their own discretion, to submit a final plat with either a bond or financial guarantee in lieu of a bond for the proper construction of the roads and streets in and drainage requirements for the subdivision. HB 3167 allows an applicant to receive approval of a final plat before any construction plans are designed or infrastructure is built or inspected. However, the recording of the final plat may only occur after the subdivision's infrastructure is built and inspected. Notably, any final plat approved through the HB 3167 approval process will need to meet all the applicable requirements of the County's Subdivision Regulations.

The alternative approval process for a Final Plat as established by HB 3167, is not referenced in the Subdivision Regulations, posing procedural issues should an applicant pursue this alternative.

Proposed Solution(s)

- A. Establish the alternative plat approval process authorized by HB 3167.
- B. Establish clear process graphics illustrating the different plat review and approval processes.

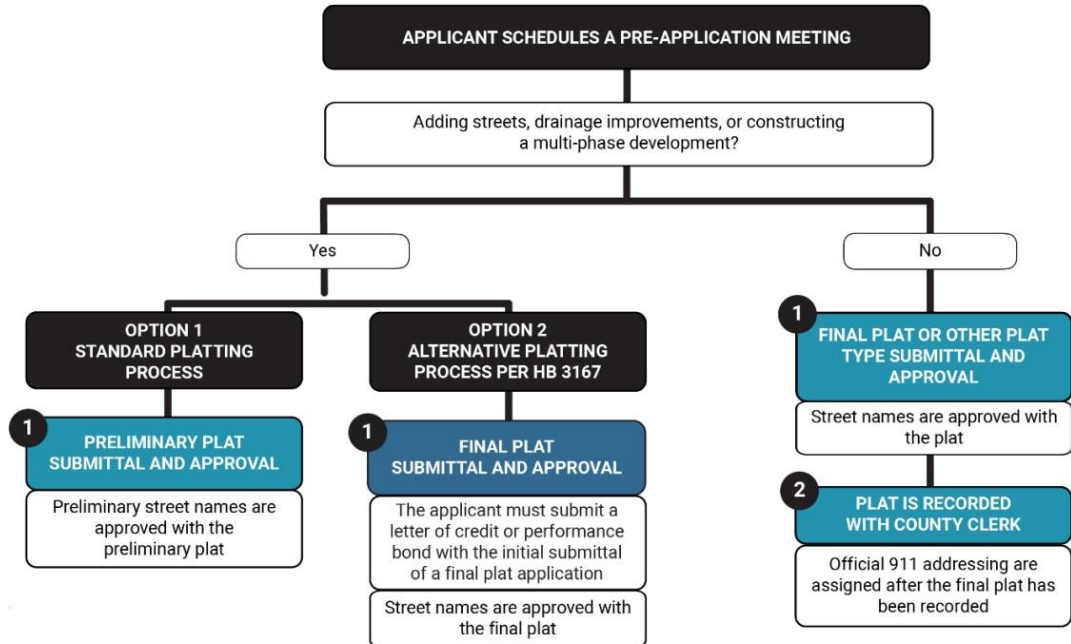


Figure 5. Example of HB 3167 Alternative Plat Approval Graphic

6. Plan/Plat Types (Article 5)

No significant recommendations to Article 5 were made.

7. Subdivision Categories and Requirements (Article 6)

No significant recommendations to Article 6 were made.

8. Minimum Standards of Design (Article 7)

8.1. Evaluate flow-rate standards for fire protection.

Issue Identified

The availability of proper flow rates for fire protection has been an issue in the past, particularly within the ETJs of the Cities of Bryan and College Station. Local water providers sometimes struggle to maintain consistent pressure, resulting in inconsistencies with fire protection services in new subdivisions.

The BCSUDG includes provisions related to fire-flow rates, and *Section 232.109* of the TLGC identifies additional fire suppression requirements for subdivisions not served by fire hydrants.

Proposed Solution(s)

- A. Evaluate exceptions to the BCSUDG fire-flow standards and align to the County's subdivision development types. Consider exceptions only for very rural development.
- B. Consider formalizing stock ponds as viable fire protection measures for commercial development.

8.2. Clarify the right-of-way dedication and acceptance process.

Issue Identified

Article 7, Section 2 states that street "dedication to the public shall be accomplished by a certification on the plat dedicating the Right-of-Way to the public forever;" however, there is no specified process for accepting the right-of-way dedication.

Per Attorney General Opinion JM-200 (1984), "the mere filing and filing and approval of a subdivision plat showing streets to be dedicated does not constitute an acceptance." (citing *Commissioners Court v. Frank Jester Dev. Co.*, 199 S.W.2d 1004 (Tex. Civ. App.--Dallas 1947, writ ref'd n.r.e.)).

Proposed Solution(s)

- A. Establish a process for accepting right-of-way dedication illustrated on a plat, including a separate order from the Commissioner Court.

8.3. Clarify requirements of street alignment continuation.

Issue Identified

Article 7, Section C.6.f states that “when land is subdivided into larger parcels rather than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future Streets and logical further Subdivisions.” This provision does not account for land subdivisions that may be exempt by TLGC *Section 232.0015*. Likewise, “ordinary” and “logical” are not defined and are subjective.

Proposed Solution(s)

- A. Revise to specify when street alignment and stub-outs to adjacent property are required (e.g., “when abutting unplatted property”).
- B. Clarify or remove the terms “ordinary” and “logical” to prevent subjectivity.

8.4. Evaluate the “Adequate Street Access” provisions.

Issue Identified

Article 7, Section C.37.b states that “any plat or any portion of a plat which is part of a Phased Subdivision having more than one-hundred fifty (150) Dwelling Units or a combination of Lots and Dwelling Units in excess of one hundred fifty (150) shall have a minimum of two (2) Access Points to an existing Public Road.”

The threshold of 150 residential lots may lead to protection issues due to the high number of lots, particularly in residential development patterns with smaller lots.

Proposed Solution(s)

- A. Consider decreasing the secondary ingress and egress requirement threshold from 150 lots to 30 to 50 lots.
- B. Based on population growth, Brazos County will soon reach the statutory threshold for being able to appoint a Fire Marshal and adopt a Fire Code (*TLGC Chapter 233.061*). Access points are regulated under the Fire Code and should be aligned with the Subdivision Regulations.

8.5. Clarify boundary road improvement requirements.

Issue Identified

Required improvements to boundary and feeder roads outlined in Article 7, Section C.7 have been inconsistently enforced, leading to unimproved roadways servicing homes and commercial development.

Proposed Solution(s)

- A. Establish a policy for improving abutting rights-of-way and service roads to development, potentially implementing traffic counts as a threshold mechanism.

8.6. Consider certain streets as private street improvements.

Issue Identified

Subdivision streets (also known as “Local” streets), Dead-end streets and cul-de-sacs typically serve localized users rather than the general County population. To minimize the assumption of ongoing maintenance costs by the County, the dedication of these roadway types as private infrastructure may be considered.

Proposed Solution(s)

The following options may be considered when defining private street types that will not be accepted by the County for maintenance and that must be dedicated as private streets:

- A. Any new cul-de-sacs and dead-end roads;
- B. Any local roads that are located entirely within a subdivision and not used for through traffic; or
- C. Any new roads which do not appear on a Thoroughfare Plan adopted by a jurisdiction, including collector roads established as part of a subdivision.

NOTE: *TLGC Chapter 232.0031* prohibits Counties from imposing a higher construction standard on new subdivision roads than it imposes on itself for roads with a similar type and amount of traffic, but the County can require subdivision roads to meet County standards.

8.7. Address driveway timing and installation issues.

Issue Identified

Home builders typically install residential driveways and culverts after the review and approval of the civil or construction plans but before right-of-way dedication to the County. Consequently, County inspection of driveway and culvert connections to streets occurs post-installation, limiting the ability to correct design and installation problems in the field.

Proposed Solution(s)

- A. Consider requiring a third-party inspection report during the installation of culverts and driveways to prevent issues post-dedication and right-of-way acceptance by the County.

8.8. Clarify applicable drainage and flood control requirements.

Issue Identified

The Subdivision Regulations cite both the BCEDG and BCSUDG for stormwater and drainage improvements within subdivisions; however, the BCEDG regulations are not as robust as the BCSUDG, resulting in potential floodplain issues. A centralized standard for floodplain and drainage controls across jurisdictions will assist in uniformity and ease of implementation.

Proposed Solution

- A. Adopt consistent standards for floodplain and drainage management across unincorporated areas of the County and within ETJs with consideration to the County's review and processing capabilities.
- B. Consider deferring floodplain and drainage review within ETJs to the municipalities.
- C. Identify maintenance gaps with detention and retention ponds to ensure the County is not maintaining private drainage infrastructure.

9. Private Subdivisions (Article 8)

9.1. Clarify the applicable design, inspection, and acceptance requirements for private infrastructure and maintenance.

Issue Identified

Article 8, Section A requires that all privately maintained streets in Rural and Urban Subdivisions be designed and constructed in accordance with the County's standards for publicly dedicated streets and the BCSUDG for publicly dedicated Streets, respectively. The County has reported pushback from the development community regarding the design standards and inspection processes for private street installations.

Proposed Solution(s)

- A. Consider adopting a singular standard (BCEDG or BCSUDG) for all private streets and establishing a third-party review process for private infrastructure.
- B. Provide a process for review and approval of an alternative roadway standard for private infrastructure, with consideration for public health, safety, and the longevity of design and construction materials.
- C. In instances where private streets or infrastructure are permitted to be constructed to an alternative standard, ensure that a process is established affirming that the County will not take over maintenance responsibility until the improvement is brought into compliance.

10. Traffic Impacts (Article 9)

10.1. Ensure the County is not overextending resources regarding subdivision maintenance and design.

Issue Identified

Article 9 establishes processes for determining sufficient roadway improvements through traffic impact analyses (TIA) and County cost sharing. In some places, this Article potentially overextends the County's obligation to participate or contribute to maintenance or roadway improvements.

Proposed Solution(s)

- A. Remove the language in Article 9, Section B that states "the County and Developer share the responsibility to identify and solve transportation issues arising from land development." This language leaves the County vulnerable to disproportional costs of providing or upgrading roadway infrastructure.
- B. Clearly identify and define cost-sharing policies, not solely relying on TIAs as the basis for determining road improvements if an existing study or analysis exists or it can be demonstrated that a roadway is substandard.
- C. The determination of acceptable service levels is split between the County Engineer and Commissioners Court but doesn't assign a methodology for determining County participation, proportionality, or oversizing.

11. Financial Responsibilities and Guarantees (Article 10)

11.1. Review fiscal surety methods for desirability and effectiveness.

Issue Identified

Article 10 of the Subdivision Regulations establishes fiscal sureties to ensure infrastructure is provided and remains in acceptable condition; however, in practice, collecting on any necessary surety has been unclear. Mandatory repairs within the maintenance window have left the County on the hook financially, partially due to surety methods and the amount provided.

Proposed Solution(s)

- A. Include requirements for rating information of surety company (AA rated by Moody's, Standard and Poor, etc.).
- B. Increase the minimum maintenance period surety to require more than 10% of construction cost, with additional consideration for the street network and transportation patterns. For example, subdivisions with singular roadways and access points may require 100% replacement, whereas a larger subdivision may only see one street failure across several blocks.

12. Construction and Maintenance (Article 11)

12.1. Clarify the utilities and improvements permitted within County rights-of-way.

Issue Identified

Brazos County has reported in the past that private utilities have been installed, both proactively and retroactively, within County rights-of-way. This leads to maintenance access issues for both the private utilities and the County.

Proposed Solution(s)

- A. Maintain and clarify the prohibition on private utilities in County rights-of-way.
- B. Clarify that any improvements within the County right-of-way, such as landscaping or signage, are not to be maintained by Brazos County.

13. Final Construction Approval and Maintenance Acceptance of Infrastructure (Article 12)

13.1. Clearly identify any penalty for missing advanced notice deadlines for surety periods.

Issue Identified

Before final maintenance acceptance of infrastructure following the maintenance period, Article 12, Section B.4 states that “the Owner shall request four (4) months prior to the conclusion of the designated maintenance surety period, as defined in Article 10, a final inspection of all infrastructure.” However, no penalty has been identified for missing the advanced notice deadline of four months.

Proposed Solution(s)

- A. Specify, if any, a penalty for missing the advance notice deadline for final maintenance inspection and acceptance.

13.2. Rectify issues with correcting damage to County facilities during construction.

Issue Identified

Article 12, Section B.7 states that “prior to consideration of Final Maintenance Acceptance, any damage to existing County facilities resulting from construction shall be repaired by the Owner at no cost to Brazos County;” however, Brazos County has identified damage as an ongoing issue during the inspection process.

Proposed Solution(s)

- A. Clarify the process and resolution necessary for any damage to County facilities incurred during construction.
- B. The County should consider requiring a work plan or a signed statement with a financial guarantee that any damage to existing County infrastructure will be repaired.