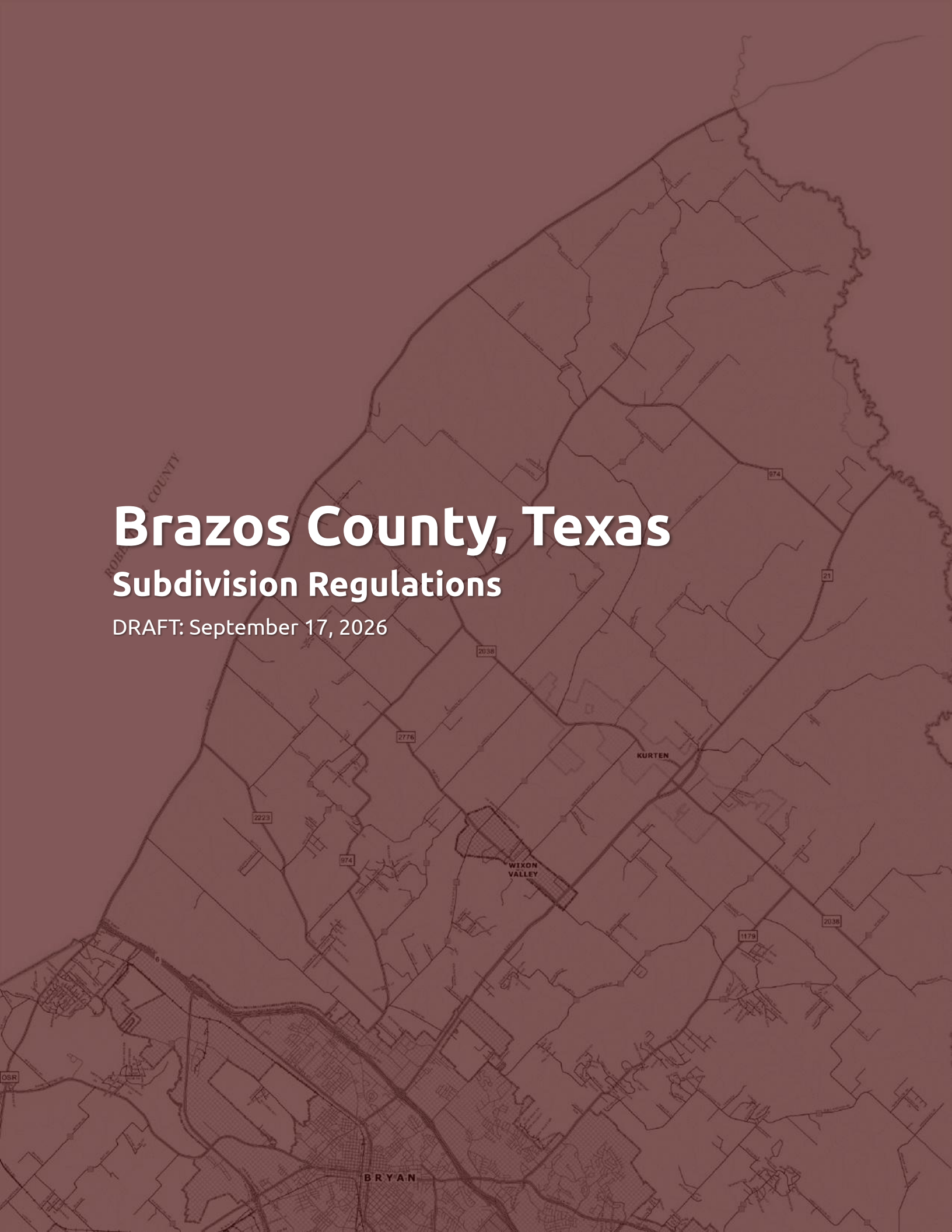




Brazos County, Texas

Subdivision Regulations

DRAFT: September 17, 2026

Revision Log

Date	Revision Description

COLLEGE
STATION

HILLCAN

WASHINGTON COUNTY

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Section 1. General Provisions.

1.01. Title.

These Brazos County Subdivision Regulations are hereby established and shall be known as, and may be cited and referred to as, “these regulations.”

1.02. Authority.

These Regulations are adopted under the authority of the Constitution and laws of the State of Texas, including particularly:

A. Texas Local Government Code:

1. *Chapter 232, County Regulation of Subdivisions;*
2. *Chapter 242, Authority of Municipality and County to Regulate Subdivisions In and Outside Municipality’s Extraterritorial Jurisdiction;*
3. *Chapter 245, Issuance of Local Permits; and*

B. Texas Transportation Code:

1. *Chapter 251, General County Authority Relating to Roads and Bridges;*
2. *Chapter 252, Systems of County Road Administration;*
3. *Chapter 253, County Improvement of Subdivision Roads;*
4. *Chapter 254, Drainage on Public Roads; and*
5. *Chapter 255, County Regulation of Sight Distances.*

1.03. Purpose and Applicability.

A. Purpose.

These regulations have been prepared for the following purposes:

1. To aid in the orderly development of the County, and provide guidelines that will lead to a desirable environment;
2. To furnish an owner with guidance and assistance in the expedient preparation and approval of their plat or development application;
3. To protect the citizens of the County by providing subdivision and development guidelines for urban and rural subdivisions;
4. To provide for the welfare of the public by providing guidelines for the location, design, and construction of roadways, roadway intersections, drainage improvements, and other features that provide for the safety of the general public;
5. To provide for the proper arrangement and construction of roads, and to verify the proper relationship of roads to existing or planned roads;
6. To verify adequate access for emergency response vehicles;
7. To verify that the County will not be burdened with substandard infrastructure in the future;

Section 1. General Provisions.

1.04. Effective Date.

8. To establish orderly policies and procedures to guide the development of property within the County's jurisdiction and well as the extraterritorial jurisdictions (ETJs) of incorporated municipalities within the County; and
9. To protect the fiscal stability of the County by safeguarding against the substandard design and construction of public infrastructure, or the inadequate funding for maintenance of public improvements.

B. Compliance Required.

1. Per *TLGC Section 232.001*, the owner of a tract of land located outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to lay out:
 - a. A subdivision of the tract, including an addition;
 - b. Lots; or
 - c. Streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use.
2. A division of a tract identified under Section 1.03.B.1 above includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.
3. A division of a tract identified under Section 1.03.B.1 above shall be subject to the requirements of these regulations.

1.04. Effective Date.

- A. The effective date of these regulations shall be XXXXXXXX, XX, 2026.
- B. Any project for which the County has provided approval of a previous application step prior to the effective date of these regulations shall be governed by those regulations in effect at the time the previous application was deemed complete and ready for review.

1.05. Special Provisions, Enforcement, and Violations.

A. Interpretation.

1. In the interpretation and application of these regulations, it is the intention of the County that the requirements provided for herein shall be the minimum requirements for the platting and developing of subdivisions outside the corporate limits of a municipality and within the County, and, where other court orders of the County are more restrictive in their requirements, such other court orders shall control.
2. These regulations are derived from Texas State statutes, and any interpretations shall be in accordance with those statutes.

B. Public Health Initiatives.

Owners of properties in the County seeking subdivision approval shall familiarize themselves with the rules for sanitation and avoidance of water, air, or other types of pollution as established by Federal or State requirements or by the County, including the County's regulations relating to private sewage facilities.

C. Enforcement and Penalties.

1. Per *TLGC Section 232.005*, at the request of the Commissioners Court, the County attorney or other prosecuting attorney for the County may file an action in a court of competent jurisdiction to:
 - a. Enjoin the violation or threatened violation of a requirement established or adopted by the Commissioners Court under these regulations; or
 - b. Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established or adopted by the Commissioners Court under these regulations.
2. Offenses Committed.
 - a. A person commits an offense if the person knowingly or intentionally violates a requirement established or adopted by the Commissioners Court under these regulations, including the following regulations incorporated herein by reference, as amended:
 - i. The Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines;
 - ii. The County's On-Site Sewage Facilities court order; and
 - iii. Appendices incorporated herein.
 - b. An offense under this Section 1.05.C.2 is a Class B misdemeanor.
 - c. This Section 1.05.C.2 does not apply to a violation for which a criminal penalty is prescribed by *TLGC Section 232.0048*.
3. A knowing or intentional violation of a requirement is considered an offense under Section 1.05.C.2 above.
4. A person may be jointly responsible as a party to an offense if the person acting with intent to promote or assist the Commissioners Court of the offense solicits, encourages, directs, aids, or attempts to aid another person to commit the offense.
5. Per Section 1.05.C.4 above, a real estate agent or broker, a lender, an attorney, a surveyor, an engineer, a title insurer, or any other person who assists in violating these regulations may also face criminal penalties.

Section 1. General Provisions.

1.06. Conflicting Provisions.

6. Besides prosecuting a criminal complaint, the County Attorney or other prosecuting attorney for the County may file a civil action in a court of competent jurisdiction to enjoin any violation or threatened violation of these Regulations, and to recover damages.
7. A tract that has been subdivided without compliance with these regulations will be ineligible to obtain a permit for the construction or modification of a private sewage facility located on the tract.

1.06. Conflicting Provisions.

- A. For the purposes of this Section 1.06, the “more restrictive provision” shall mean the provision that imposes more stringent controls.
- B. To the extent that other laws or regulations identified in this Section 1.06 conflict with these regulations, the more restrictive provision shall prevail.
- C. Development Within a Municipality’s Extraterritorial Jurisdiction.

1. Applicability.

Specific platting, permitting, review, and development requirements applicable within a municipality’s extraterritorial jurisdiction may be governed by an interlocal agreement between the County and the municipality, as authorized by applicable State law.

2. Governing Interlocal Agreement.

Where the County and a municipality have entered into an applicable interlocal agreement governing the regulation of subdivisions or approval of related permits within the municipality’s extraterritorial jurisdiction, the applicant shall comply with the procedures, decision-making authority, and applicable requirements established by that agreement and these regulations to the extent authorized by the agreement and applicable State law.

3. Designation of Decision-Making Authority.

- a. The governmental entity authorized by applicable State law and any effective interlocal agreement to regulate a subdivision or approve a related permit shall be the decision-making authority for that subdivision or permit.
- b. Nothing in these regulations shall be interpreted to require duplicative approval by both the County and a municipality where applicable State law or an interlocal agreement assigns regulatory or approval authority to one governmental entity.

4. County Review or Notification.

- a. Where the County is not the governmental entity authorized to approve a subdivision or related permit within a municipality's extraterritorial jurisdiction, the County may receive application materials, provide technical comments, or conduct other review or coordination to the extent authorized by applicable State law or an interlocal agreement.
- b. Such review or coordination shall not constitute County approval unless the County is the governmental entity authorized to approve the applicable subdivision or permit.

5. No Interlocal Agreement.

Where no applicable interlocal agreement governs the regulation of subdivisions or approval of related permits within a municipality's extraterritorial jurisdiction, the applicant shall comply with the requirements and procedures established by applicable State law and any requirements of these regulations that are lawfully applicable to the County's jurisdiction.

6. Removal From Extraterritorial Jurisdiction.

If property is formally removed from a municipality's extraterritorial jurisdiction in accordance with applicable law, these regulations shall apply to the property to the extent otherwise applicable to property within the County's jurisdiction.

D. In addition to compliance with these regulations and any applicable interlocal agreement, the development and use of real property in the County may be subject to regulation by other jurisdictions, including the following, as amended:

1. The Texas Commission on Environmental Quality (TCEQ);
2. The U.S. Army Corps of Engineers (USACE);
3. The Federal Emergency Management Agency (FEMA);
4. The United States Environmental Protection Agency (EPA);
5. The United States Fish and Wildlife Service (USFW);
6. The Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines;
7. Other applicable County regulations and resolutions.

1.07. Severability.

In the event that any portion of these regulations is held unconstitutional or invalid, other parts hereof shall not be affected thereby, and they shall be held in effect unless and until otherwise changed by the Commissioners Court and so recorded in its minutes.

Section 1. General Provisions.

1.07. Severability.

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Section 2. Administration and Review Procedures.

2.01. Decision-Making Authority.

A. Authority Established.

1. Per *TLGC Section 232.0022*, the Commissioners Court may designate to one or more officers or employees of the County the authority to approve, approve with conditions, or disapprove a plat or accompanying application.
2. An applicant has the right to appeal to the Commissioners Court or the Court's designee if the person or persons designated under this Section 2.01 disapprove a plat or accompanying application.
3. When a determination under these regulations results in a deficiency, condition, denial, or other adverse action for which an appeal is authorized by these regulations, the written determination shall identify the applicable provision and the basis for the determination.

B. Unless stated otherwise throughout these regulations, Table 2.1 below identifies the decision-making authority for applications required by these regulations.

1. The decision-making authority identified in Table 2.1 below may defer its authority to the Commissioners Court on a case-by-case basis at the discretion of the authority or at the discretion of the Commissioners Court.
2. Notice of decision-making authority deferral shall be provided in writing to the applicant.
3. Deferral of decision-making authority to the Commissioners Court in accordance with 2.01.B.1 above does not affect the County's review authority and procedures established under State Law or these regulations.

C. The Commissioners Court grants all County officials and employees having duties assigned within Table 2.1 below the authority to perform those duties as required by these regulations.

Table 2.1. Summary of Decision-Making Authority¹

Subdivision Application Types	Decision-Making Authority
Preliminary Applications	
Preliminary Plan	County Engineer
Subdivision Applications	
Simplified Plat	Commissioners Court
Final Plat	Commissioners Court
Replat	Commissioners Court
Amending Plat	Commissioners Court
Cancellation Plat	Commissioners Court
Variance Applications and Appeals	

Section 2. Administration and Review Procedures.

2.02. Pre-Application Procedures.

Subdivision Application Types	Decision-Making Authority
Subdivision Variance	Commissioners Court
Subdivision Proportionality Appeal	Commissioners Court
Development Applications	
Construction Plan	County Engineer
Floodplain Development Permit	County Engineer
On-Site Sewer Facilities (OSSF) Permit	County Health Department

¹ For development of property where the County has final approval authority. Additional or alternate authorities will be provided within interlocal agreements between the County and an external agency, including those that govern development within the ETJs surrounding incorporated municipalities within the County.

2.02. Pre-Application Procedures.

- A. Before submitting an initial application to the County, the applicant may schedule and execute a Pre-Application Meeting to allow for the exchange of non-binding information between the Applicant and the County to verify that the applicant is informed of relevant County development regulations and processes.
- B. The Pre-Application Meeting is intended to identify any project constraints or concerns relevant to compliance with these regulations.
- C. The Pre-Application Meeting is intended to promote an efficient and orderly review process, including identifying the appropriate development sequence established in Section 3.02.B below, and to introduce the applicant to any pertinent County individuals and decision-makers relevant to their application.
- D. Pre-Application Meetings shall not vest an application or any details discussed therein, nor constitute a formal submittal outlined in Section 2.05 below.
- E. The County may establish necessary forms, calendars, and acknowledgements required with an application for a Pre-Application Meeting.

2.03. Application Processing.

- A. All applications required by these regulations are subject to the intake, review, and approval procedures outlined in this Section 2.03.
- B. Per *TLGC Section 232.0025*, the County is authorized to prepare formal application submittal procedures, including the method of delivery (e.g., physically, electronically), required for an application to be deemed filed.

C. Authority to Submit and Represent the Application

1. Unless otherwise stated in these regulations, an application shall be submitted and represented by:
 - a. The property owner or owners of the subject property, as listed on the latest property deed; or
 - b. An individual authorized to submit and represent the application on behalf of the owner or owners of the subject property.
 - i. When utilizing an authorized individual to submit and represent the application, the application shall be accompanied by a letter of authorization from the property owner or owners of the subject property, stating their consent to the application and delegating their authority to the authorized individual.
 - ii. The County may establish necessary forms or templates for delegating and authorizing an individual to be included with any initial application.
2. When ownership of the subject property is held by a company or entity, proof of signatory authority shall be required for the individual signing on behalf of the owning company or entity to be included with:
 - a. The initial application; and
 - b. The delegation of an individual authorized to submit and represent the application, if applicable.

D. Responsibility of Accurate Application Information and Plans.

1. The applicant shall be responsible for providing an accurate and complete application that accounts for the requirements listed in all required application forms and materials established by these regulations.
2. An application shall be deemed inaccurate following a determination that any fields, details, depictions, or other information contained therein are found to be inconsistent with County records, other information, or plans provided with the application, or the requirements of these regulations.
3. Any inaccuracy or omission found in an application shall automatically render the application incomplete and shall constitute a reason for conditional approval or disapproval of an application in accordance with Section 2.05.C below, regardless of the stage of review at which the inaccuracy is initially discovered.

Section 2. Administration and Review Procedures.

2.04. Application and Inspection Fees.

2.04. Application and Inspection Fees.

A. Application and Inspection Fees Established

1. Per *TLGC Section 232.0021*, the County is authorized to prepare a fee schedule to document the required fees associated with development, including application processing, noticing, and recordation fees, and fees for inspecting public facilities.
 - a. The County is authorized to process a fee refund on a case-by-case basis, as deemed appropriate.
 - b. The County may amend the fee schedule to verify adequate fees charged for the processing, review, and administration of applications identified in these regulations, and to maintain the County's processes in compliance with State Law.
 - c. The County shall maintain and make publicly available the list of all established fees.
2. Disputes between the applicant and the County about the basis or amount of a fee may be appealed or escalated by either party to the Commissioners Court.
3. The fee schedule is intended to cover the cost that the County incurs in processing, reviewing, and administering applications identified in these regulations, including the publication of public notices, engineering plan review and inspections, legal fees, and other associated costs.
 - a. The County incurs these costs regardless of whether the application is approved, approved with conditions, or disapproved in accordance with Section 2.05.C below.
 - b. Applications shall be accompanied by the prescribed fees set forth in the established fee schedule to be deemed complete in accordance with Section 2.05.B below.

B. Specific Inspection Fee Provisions.

1. The County is authorized to impose an inspection fee associated with an application if inspection of the property is required to verify compliance with these regulations and other applicable County requirements.
2. The County may require an inspection fee with an initial application, at the time of inspection, or after the inspection has been performed, as deemed appropriate by the County Engineer.
3. After determining the appropriate timing, the County Engineer shall invoice the applicant the required inspection fee.

C. Third-Party Review and Inspection Fees.

1. Per *TLGC Section 232.901*, the County may employ a third-party entity to review and process an application, or to inspect the public infrastructure facilities associated with or required in conjunction with an application.
 - a. The notice of determination by the County to employ a third-party entity to review and process an application shall be provided within the determination of application completeness that is issued in accordance with Section 2.05.B below.
 - b. Payment of the third-party review fee is required for the County to consider an application complete in accordance with Section 2.05.B below.
 - c. The notice of determination by the County to employ a third-party entity to inspect the public infrastructure facilities associated with or required in conjunction with an application shall be provided prior to the pre-construction meeting conducted in accordance with Section 3.03.B below.
 - d. Payment of the third-party inspection fee is required for the County to conduct a pre-construction meeting in accordance with Section 3.03.B below.
2. The County shall determine the review fee for third-party reviews of applications by considering the County's actual cost to, as applicable, review and process engineering or Construction Plans or to inspect the public infrastructure facilities associated with or required in conjunction with an application.
3. In determining the County's actual cost for reviewing and processing an engineering or construction plan or inspecting a public infrastructure improvement, the County may consider:
 - a. The fee that would be charged by a qualified, independent third-party entity for those services;
 - b. The hourly rate for the estimated actual direct time of the County's employees performing those services; or
 - c. The actual costs assessed to the County by a third-party entity that provides those services to the County.
4. The County shall not require the disclosure of information related to the value or cost of constructing or improving a residential dwelling or the public infrastructure facilities for a subdivision, lot, or related property development as a condition of obtaining approval for subdivision construction or for the acceptance of those public infrastructure facilities except as required by the Federal Emergency Management Agency for participation in the National Flood Insurance Program.

Section 2. Administration and Review Procedures.
2.05. General Application Review and Action Procedures.

5. Following the receipt of a determination of an incomplete application in accordance with Section 2.05.B below in part or wholly due to a missing or incorrect third-party review fee, an applicant may appeal the determination to use a third-party entity to the Commissioners Court.
 - a. The third-party review fee may not be appealed or negotiated on behalf of the contracted third-party entity.
 - b. The appeal of the determination to use a third-party entity shall postpone the determination of application completeness until resolution of the appeal process.
 - c. Appeals of the determination to use a third-party entity shall be heard by the Commissioners Court within thirty (30) days of receipt, in writing, of the applicant's request to appeal.
 - d. The Commissioners Court may either uphold the determination to use a third-party entity or accept an applicant's appeal made in accordance with this Section 2.04.C.5 and establish alternative means for application review.

2.05. General Application Review and Action Procedures.

A. Development Application Criteria.

1. Per *TLGC Section 232.0025*, the County is authorized to prepare development application criteria that documents all application forms, information requirements, checklists, fees, architectural or engineering drawing standards, applicant contact information and acknowledgments, and any other information necessary to show compliance with these regulations.
2. The development application criteria and all other application requirements and required standards shall be made available by the County Engineer and shall be posted on the County's internet website.
3. Per *TLGC Section 232.0012*, the development application criteria may establish a submittal and review schedule for applications.
 - a. The County may amend the schedule to verify effective and efficient review of these regulations, and to maintain the County's processes in compliance with State Law.
 - b. Compliance with the submittal and review schedule shall be required for initial and subsequent applications to be deemed filed in accordance with Section 2.05.B below.

B. Determination of Application Completeness.

1. Materials Required.

Per *TLGC Section 232.0025*, an application is considered complete when the applicant has submitted the required documentation listed in the development application criteria established in Section 2.05.A above, including any application fees and inspection fees established in Section 2.04 above.

Section 2. Administration and Review Procedures.
2.05. General Application Review and Action Procedures.

2. Application Filing and Completeness Review Procedures.

- a. The County Engineer is authorized to accept, review, and determine whether an application is considered filed and complete.
- b. The County Engineer shall issue a determination of application completeness, specifying that the submittal is either deemed complete or incomplete, within ten (10) business days of an application being filed in accordance with the formal application submittal procedures established in Section 2.03.B above and the submittal and review schedule established in Section 2.05.A.3 above.
 - i. A determination of application completeness shall be provided to the applicant in writing.
 - ii. Failure of the County to provide a determination of application completeness in writing and in accordance with this Section 2.05.B.2.b shall result in the application being deemed complete and subject to the consideration procedures established in Section 2.05.C.
- c. A determination of an incomplete application shall include:
 - i. A listing of the application's deficiencies with the submittal requirements, including those listed in the development application criteria established in Section 2.05.A above; and
 - ii. The submittal date that the applicant may refile a complete application for the next available review cycle listed in the submittal and review schedule established in Section 2.05.A.3 above.
- d. A determination of application completeness shall include:
 - i. Written confirmation of a complete application;
 - ii. The date that the applicant will receive the County's technical review in accordance with Section 2.05.C below; and
 - iii. The date that the application will be acted on by the decision-making authority established in Section 2.01 above.
- e. A determination of application completeness shall not be construed as approval of the application or verification of the documentation or information included therein.
- f. If deemed incomplete, refiled applications shall be subject to the determination of application completeness standards established in this Section 2.05.B.
- g. An applicant may appeal a determination of an incomplete application to the Commissioners Court.

Section 2. Administration and Review Procedures.
2.05. General Application Review and Action Procedures.

C. Timely Consideration of Complete Applications.

1. Per *TLGC Section 232.0025*, the decision-making authority listed within Table 2.1 above shall approve, approve with conditions, or disapprove an application no later than thirty (30) business days from the date the application is deemed complete in accordance with Section 2.05.B above, unless otherwise provided in Section 2.05.C.3 below.
2. An application is considered approved by the decision-making authority listed within Table 2.1 above if the authority fails to approve with conditions or disapprove the application within the action timeline established in Section 2.05.C.1 above.
3. Waiver of Right to 30-Day Action.
 - a. The action timeline established in Section 2.05.C.1 above:
 - i. For a purpose related to *Government Code Chapter 2007*, may be extended for a period not to exceed thirty (30) business days, if:
 - (A) Requested and agreed to in writing by the applicant and approved by the decision-making authority listed within Table 2.1 above ; or
 - (B) *Government Code Chapter 2007* requires the County to perform a Takings Impact Assessment in connection with the application; or
 - ii. For a purpose unrelated to *Government Code Chapter 2007*, may be extended for one (1) or more periods, not to exceed thirty (30) business days, if requested and agreed to in writing by the applicant and approved by the decision-making authority listed within Table 2.1 above.
 - b. The action timeline established in Section 2.05.C.1 above applies only to a decision wholly within the control of the County.
 - c. The decision-making authority listed within Table 2.1 above shall act on an extension request no later than twenty (20) business days from the date the application is deemed complete in accordance with Section 2.05.B above.
 - d. The County may not require an applicant to waive the time limits or approval procedure contained in this Section 2.05.
4. The application is considered approved by operation of law if the decision-making authority listed within Table 2.1 above fails to approve, approve with conditions, or disapprove an application in accordance with Section 2.05.C.1 above.
5. An applicant may appeal a conditional approval or disapproval of an application to the Commissioners Court.

D. Consideration of Conditionally Approved or Disapproved Applications.

1. Per *TLGC Section 232.0026*, a decision-making authority listed within Table 2.1 above that conditionally approves or disapproves of an application in accordance with Section 2.05.C above shall provide the applicant with a written statement that lists the conditions for approval or the reasons for disapproval of the application.
 - a. A condition for approval or reason for disapproval of an application shall:
 - i. Be directly related to the requirements of these regulations or other County requirements; and
 - ii. Include a citation to the law, including a statute or order, that is the basis for the conditional approval or disapproval, if applicable.
 - b. A condition for approval or reason for disapproval of an application shall not be arbitrary.
2. Per *TLGC Section 232.0027*, after receiving the written statement that lists the conditions for approval or the reasons for disapproval of the application in accordance with Section 2.05.D.1 above, an applicant may submit to the County Engineer a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided.
 - a. The County may not establish a deadline for an applicant to submit a response to conditional approval or disapproval.
 - b. Applications made in response to conditional approval or reasons for disapproval of an application shall be subject to the application filing and completeness review procedures established in Section 2.05.B.2 above.
3. Per *TLGC Section 232.0028*, a decision-making authority listed within Table 2.1 above that receives a response under Section 2.05.D.2 above shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved application, no later than fifteen (15) business days after the date the response was filed in accordance with Section 2.05.B.2 above.
 - a. A decision-making authority listed within Table 2.1 above that conditionally approves or disapproves of an application following the submission of a response under Section 2.05.D.2 above:
 - i. Shall comply with Section 2.05.D.1 above; and
 - ii. May disapprove the application only for a specific condition or reason provided to the applicant for the original application under Section 2.05.D.1 above.
 - b. A decision-making authority listed within Table 2.1 above that receives a response under Section 2.05.D.2 above shall approve a previously conditionally approved or disapproved application if the applicant's response adequately addresses each condition for the conditional approval or each reason for the disapproval.

Section 2. Administration and Review Procedures.
2.05. General Application Review and Action Procedures.

4. A previously conditionally approved or disapproved application is approved if:
 - a. The applicant filed a response that meets the requirements of Section 2.05.D.3.b above; and
 - b. The decision-making authority listed within Table 2.1 above that received the response does not disapprove the application on or before the date required by Section 2.05.D.3 above and in accordance with Section 2.05.D.1 above.
- E. Expiration of Approvals and Applications.
 1. Terms Defined.

Per *TLGC Chapter 245.001*, for the purposes of this Section 2.05.E:

 - a. "Permit" shall mean a license, certificate, approval, registration, consent, permit, contract, or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.
 - b. "Project" shall mean an endeavor over which the County exerts its jurisdiction and for which one (1) or more permits are required to initiate, continue, or complete the endeavor.
 2. Applicability.
 - a. Per *TLGC Chapter 245.003*, this Section 2.05.E applies only to a project in progress on, or commenced after, September 1, 1997.
 - b. For purposes of this Section 2.05.E a project is considered to be in progress on, or commenced after, September 1, 1997, if:
 - i. Before September 1, 1997:
 - (A) The County approved or issued one (1) or more permits for the project; or
 - (B) An application for a permit for the project was filed with the County; and
 - ii. On or after September 1, 1997, the County enacts, enforces, or otherwise imposes:
 - (A) An order, regulation, ordinance, or rule that, in effect, retroactively changes the duration of a permit for the project;
 - (B) A deadline for obtaining a permit required to continue or complete the project that was not enforced or did not apply to the project before September 1, 1997; or
 - (C) Any requirement for the project that was not applicable to or enforced on the project before September 1, 1997.

Section 2. Administration and Review Procedures.
2.05. General Application Review and Action Procedures.

- c. Per *TLGC Chapter 245.006*, this Section 2.05.E shall be enforced only through mandamus, declaratory, or injunctive relief.

3. Exemptions.

Per *TLGC Chapter 245.004*, this Section 2.05.E does not apply to:

- a. A permit that is at least two (2) years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:
 - i. Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; or
 - ii. Local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons;
- b. Regulations for sexually oriented businesses;
- c. County ordinances, rules, regulations, or other requirements affecting colonias;
- d. Fees imposed in conjunction with development permits;
- e. Regulations for utility connections;
- f. Regulations to prevent imminent destruction of property or injury to persons from flooding that are effective only within a flood plain established by a federal flood control program and enacted to prevent the flooding of buildings intended for public occupancy;
- g. Construction standards for public works located on public lands or easements; or
- h. Regulations to prevent the imminent destruction of property or injury to persons if the regulations do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project.

4. Uniformity of Requirements.

- a. Per *TLGC Chapter 245.002*, the County shall consider the approval, disapproval, or conditional approval of an application in accordance with Section 2.05.C above solely on the basis of these regulations or other properly adopted requirements in effect at the time that:
 - i. The original application for the permit is filed for review for any purpose, including review for administrative completeness; or
 - ii. A plan for the development of real property or a plat application is filed with the County.

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- b. Rights to which an applicant is entitled under this Section 2.05.E accrue on the filing of an original application for development or a subdivision application that gives the County fair notice of the project and the nature of the permit sought, as determined by the Commissioners Court.
 - i. An application is considered filed on the date the applicant:
 - (A) Delivers the application to the County in accordance with Section 2.03 above; or
 - (B) Deposits the application with the United States Postal Service by certified mail addressed to the County.
 - ii. A certified mail receipt obtained by the applicant at the time of deposit is prima facie evidence of the date the application was deposited with the United States Postal Service.
 - iii. This Section 2.05.E.4 does not prohibit the County from requiring compliance with technical requirements relating to the form and content of an application in effect at the time the application was filed in accordance with Section 2.05.A above, even if the application is filed after the date an applicant accrues rights under this Section 2.05.E.4.b.
- c. If a sequence of applications is required in accordance with Section 3.02.B below, these regulations or other properly adopted requirements in effect at the time the original application for the first step in that sequence is filed shall be the sole basis for consideration of all subsequent applications required for the completion of the project.
- d. All applications required for the project are considered to be a single sequence of applications.
- e. After an application is filed, the County shall not shorten the duration of any subsequent application required for the project.
- f. Notwithstanding any provision of this Section 2.05.E.4 to the contrary, a permit holder may take advantage of recorded subdivision notes, recorded restrictive covenants required by a regulatory agency, or a change to these regulations that enhances or protects the project, including changes that lengthen the effective life of the permit after the date the application for the permit was made, without forfeiting any rights under this Section 2.05.E.
- g. The County hereby places an expiration date of forty-five (45) business days following the date an application is filed if:
 - i. The applicant fails to provide documents or other information necessary to comply with the County's technical requirements relating to the form and content of the application in accordance with Section 2.05.A above;
 - ii. The County provides the applicant with a determination of application incompleteness, including the date the application will expire if the documents or other information are not provided in accordance with Section 2.05.B above; and

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- iii. The applicant fails to provide the specified documents or other information specified in the determination of application incompleteness issued in accordance with Section 2.05.B above.
5. Expiration of Dormant Projects.
- a. The County hereby places an expiration date of two (2) years on an application following the date of conditional approval or approval of an individual permit issued in accordance with Section 2.05.C above if:
 - i. Action for the permit does not otherwise specify a longer expiration period; and
 - ii. No progress has been made toward completion of the project in accordance with Section 2.05.E.5.d below.
 - b. Expiration of Complete Applications.
 - i. The County hereby places an expiration date of five (5) years on an application following the date of determination of application completeness in accordance with Section 2.05.B above if:
 - (A) The determination of application completeness does not otherwise specify a longer expiration period; and
 - (B) No progress has been made toward completion of the project in accordance with Section 2.05.E.5.d below.
 - ii. For development projects that require multiple application steps in accordance with the development sequences established in Section 3.02.B below, the expiration period established by this Section 2.05.E.5.b shall apply to the initial application step within the development sequence.
 - c. Nothing in this Section 2.05.E.5 shall be deemed to affect the timing of a permit issued solely under the authority of *Health and Safety Code Chapter 366* by the Texas Commission on Environmental Quality or its authorized agent.
 - d. Progress toward completion of the project shall include any one (1) of the following:
 - i. A complete application for a plat or plan is submitted to the County in accordance with Section 2.05.B above;
 - ii. A good-faith attempt is made to file an application with the County for a permit necessary to begin or continue toward completion of the project in accordance with Section 3.02.B below, as determined by the Commissioners Court;
 - iii. Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent (5%) of the most recent appraised market value of the real property on which the project is located;

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- iv. Fiscal security is posted with the County to verify performance of an obligation required by the County; or
- v. Utility connection fees or infrastructure apportionment fees for the project have been paid to the County in accordance with Section 4.02.B below.

6. Expiration of Certain Subdivision Applications.

- a. If no portion of the land subdivided under a subdivision approved under these regulations is sold or transferred before January 1 of the 51st year after the year in which the subdivision was approved, the approval of the subdivision expires, and the owner shall resubmit a subdivision application for approval prior to any further sale or transfer.
- b. A subdivision application resubmitted for approval under this Section 2.05.E.6 is subject to these regulations.

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A. Plat Required for Subdivision of Property.

1. Per *TLGC Section 232.001*, the owner of a tract of land located outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to lay out:
 - a. A subdivision of the tract, including an addition;
 - b. Lots; or
 - c. Streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use.
2. A division of a tract identified within Section 3.01.A.1 above includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

B. Applicable Subdivision Regulations.

1. If the subject property lies entirely within the corporate limits of a municipality, the applicant shall consult directly with that municipality pertaining to all platting procedures and requirements.
2. If the subject property lies entirely outside of the corporate limits of a municipality and all ETJs, these regulations shall govern the platting procedures and requirements.
3. If the subject property lies fully or partially within the ETJ of a municipality, the applicant shall consult the current, applicable interlocal agreement between the County and that municipality for all platting procedures and requirements.
4. Subdivisions Along Jurisdictional Lines.
 - a. This Section 3.01.B.4 is established to ensure that proper jurisdictional and recording procedures established by these regulations are followed regarding subdivision applications made along jurisdictional lines.
 - b. For the purposes of this Section 3.01.B.4, “along jurisdictional lines” shall include subdivisions that are bisected or otherwise divided by at least one (1) of the following:
 - i. City limit boundaries;
 - ii. County lines between adjacent counties; or
 - iii. Established jurisdictional limits granted to other regulatory bodies or agencies, including special purpose districts, utility districts, and certificate of convenience and necessity boundaries.
 - c. The County shall maintain an active record of all jurisdictional lines applicable to this Section 3.01.B.4.

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d. It shall be the responsibility of the subdivider to verify the accuracy of all jurisdictional boundaries.

e. Coordination Required.

Subdivisions made along jurisdictional lines where the County has forfeited, modified, or otherwise granted subdivision authority under these regulations to an external body or agency shall be controlled by an active interlocal agreement, including those mandated in accordance with *TLGC Chapter 242*.

f. Subdividing Along Jurisdictional Lines Prohibited.

i. Subdividing property along jurisdictional lines where the County retains its subdivision authority under these regulations shall be prohibited unless otherwise approved by the Commissioners Court.

ii. Unless otherwise approved in accordance with Section 3.01.B.4.f.i above, any subdivision application made in accordance with these regulations shall be located wholly within the County's jurisdiction.

C. Exceptions to Plat Requirement.

1. General Exception Requirements and Processes.

a. Affidavit Required.

i. An owner claiming a plat exemption under this Section 3.01.C shall provide a signed affidavit affirming or including the following information to determine if a subdivision exemption is legitimate and applicable:

(A) A notarized signature from the property owner or owners;

(B) The claimed platting exemption listed in this Section 3.01.C; and

(C) Affirmation from the property owner that the details of the subdivision qualify it for a platting exemption under this Section 3.01.C shall be maintained or otherwise adhered to in perpetuity.

ii. The County Engineer shall be responsible for reviewing and acting on a platting exemption affidavit.

iii. An owner may appeal the decision of the County Engineer regarding a platting exemption affidavit to the Commissioners Court.

iv. Following acceptance of a platting exemption affidavit, the owner shall file the affidavit with the County Clerk.

b. Requirements for Exempted Property.

Subdivisions of property identified in this Section 3.01.B.4 that are exempt from the platting procedures of these regulations may still be subject to the applicable portions of these regulations related to development permitting and 9-1-1 addressing.

c. Loss of Exception.

An exempt subdivision identified in this Section 3.01.B.4 shall lose such exception if it ceases to meet the exception requirements identified in this Section 3.01.B.4.

2. Per *TLGC Section 232.0015(c)*, the County shall not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:
 - a. The owner does not lay out a part of the tract described by Section 3.01.A.1.c above; and
 - b. The land is to be used primarily for agricultural use, as defined by *Section 1-d, Article VIII, Texas Constitution*, or for farm, ranch, wildlife management, or timber production use within the meaning of *Section 1-d-1, Article VIII, Texas Constitution*.
3. If a tract described by Section 3.01.C.2 above ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, the platting requirements of these regulations shall apply.
4. Exception for Familial Transfers.
 - a. Per *TLGC Section 232.0015(e)*, the County shall not require the owner of a tract of land located outside the limits of a municipality to have a plat of the subdivision prepared if:
 - i. The tract is divided into four (4) or fewer parts;
 - ii. The subdivision does not lay out a part of the tract described by Section 3.01.A.1.c above; and
 - b. Each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under *Government Code Chapter 573*.
 - c. If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the subdivision requirements of these regulations apply.
5. Per *TLGC Section 232.0015(f)*, the County shall not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two (2) or more parts to have a plat of the subdivision prepared if:
 - a. All of the lots of the subdivision are more than ten (10) acres in area; and
 - b. The owner does not lay out a part of the tract described by Section 3.01.A.1.c above.
6. Per *TLGC Section 232.0015(g)*, the County shall not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two (2) or more parts and does not lay out a part of the tract described by Section 3.01.A.1.c above to have a plat of the subdivision prepared if all the lots are sold to veterans through the Veterans' Land Board program.

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7. Per *TLGC Section 232.0015(h)*, these regulations shall not apply to a subdivision of any tract of land:
 - a. Belonging to the State or any state agency, board, or commission; or
 - b. Owned by the permanent school fund or any other dedicated funds of the State, unless the subdivision lays out a part of the tract described by Section 3.01.A.1.c above.
8. Per *TLGC Section 232.0015(i)*, the County shall not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two (2) or more parts to have a plat of the subdivision prepared if:
 - a. The owner of the land is a political subdivision of the State;
 - b. The land is situated in a floodplain; and
 - c. The lots are sold to adjoining landowners.
9. Per *TLGC Section 232.0015(j)*, the County shall not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two (2) parts to have a plat of the subdivision prepared if:
 - a. The owner does not lay out a part of the tract described by Section 3.01.A.1.c above; and
 - b. One (1) new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the subdivision requirements of these regulations.
10. Per *TLGC Section 232.0015(k)*, the County shall not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two (2) or more parts to have a plat of the subdivision prepared if:
 - a. The owner does not lay out a part of the tract described by Section 3.01.A.1.c above; and
 - b. All parts are transferred to persons who owned an undivided interest in the original tract, and a subdivision is filed before any further development of any part of the tract.
11. Per *TLGC Section 232.007*, the County shall not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two (2) or more parts to have a plat of the subdivision prepared if the property is used for a manufactured home rental community.

D. Public Hearing and Noticing Requirements.

1. Noticing Requirements by Application Type.

- a. The TLGC requires issuance of a public hearing notice for certain subdivision applications either through the publication of a notice in an official newspaper or by mail.
- b. Table 3.1 below summarizes the subdivision applications that require notice of a public hearing in accordance with Section 3.04 below.
- c. Reference the applicable sections within Section 3.04 below for additional specifications regarding public notice requirements, as applicable.

Table 3.1. Summary of Noticing Requirements

Subdivision Type	Type of Notice Required	Reference
Replat	Newspaper*	Section 3.04.B.3
Cancellation Plat	Newspaper	Section 3.04.B.5
Subdivision Variance	Mailed	Section 3.04.C.1

**A Replat has noticing exceptions that may require a mailed notice instead of a newspaper notice; refer to Section 3.04.B.3.b below for noticing exceptions for Replats.*

2. Noticing Types.

Unless otherwise specified within Section 3.04 below, the notice for public hearings shall meet the following criteria:

- a. Mailed Notice.
 - i. Issuance of a written notice by mail shall be sent to property owners of lots located within two hundred (200) feet of the subject property, based on the most recently approved County tax roll upon which the property reflected in the application is located.
 - ii. The mailed notice shall be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the County.

b. Newspaper Notice.

Notice of a public hearing must be published in a newspaper in general circulation in the County within the time frame required for each plat type in accordance with Section 3.04 below.

c. Noticing Content.

Mailed and newspaper notices shall:

- i. Describe any property involved in the application by map, street address, or legal description;
- ii. Describe the action sought in the application;

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- iii. Indicate the date, time, and place of any public hearings or meetings that will be held by the Commissioners Court to consider the application; and
 - iv. Indicate where additional information on the matter can be obtained from the County.
 - d. Minor Defects in Notices.
 - i. Minor defects in required notices will not be deemed to impair the notice or invalidate proceedings pursuant to the notice.
 - ii. Minor defects in notice are limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties.
 - iii. The Commissioners Court shall make a formal finding about whether there was substantial compliance with the notice requirements of these regulations if questions arise at any hearing regarding the adequacy of the public notice.
- E. Subdivision Recordation.
 - 1. The following subdivision applications approved by the County in accordance with Section 2.05.C above shall ultimately require recordation with the County Clerk, subject to the County Clerk's filing requirements:
 - a. Simplified Plat;
 - b. Final Plat;
 - c. Replat;
 - d. Amending Plat; and
 - e. Cancellation Plat.
 - 2. Following approval of a plat listed in 3.01.E.1 above by the decision-making authority listed within Table 2.1 above, the applicant shall submit the plat to the County Engineer for recording in accordance with the requirements of the County Clerk.
 - a. A Preliminary Plan shall not be filed with the County Clerk.
 - b. An applicant is responsible for all filing fees associated with plat recordation.
 - 3. Additional specifications regarding the filing of approved subdivision applications may be found in the applicable sections within Section 3.04 below.
 - 4. The County may withhold subdivision recordation based on the following circumstances:
 - a. The payment of all required bonds in accordance with Section 3.02.C below;
 - b. The construction, inspection, and acceptance by the County of all required public facilities, as applicable, in accordance with 3.03 below; and

- c. The resolution of all conditions associated with disapproval or conditional approval in accordance with Section 2.05.C above, including those associated with a variance application associated with the plat.
5. Prior to filing a plat, a certificate from the Brazos County Tax Assessor's Office must accompany the plat to be recorded, showing that all taxes owing to the State, County, school district, and any other political subdivision have been paid in full to date.
6. If a plat listed in Section 3.01.E.1 above is not recorded within five (5) years of the approval by the decision-making authority listed within Table 2.1 above, the approval of the plat expires.
 - a. A single six (6) month extension may be granted by the Commissioners Court, and must be applied for prior to the expiration of the approval established by this Section 3.01.E.6.
 - b. Plat applications with approvals that have expired in accordance with this Section 3.01.E.6 are subject to the full application requirements and procedures identified in Section 2.05 above, as well as all applicable regulations in effect at the time of the reapplication.

3.02. Subdivision Approval Procedures.

A. Overall Processes and Procedures.

1. The sequence of applications for a development project shall be made in accordance with one (1) of the unique development sequences outlined in Section 3.02.B below.
2. Concurrent or out-of-sequence review of applications may be permitted on a case-by-case basis, as determined by the County Engineer.
3. The County Engineer shall determine the initial application required for a development project within the respective unique development sequence outlined in Section 3.02.B below.
 - a. Once the initial application has been filed by the applicant, the project shall not change development sequence unless otherwise approved by the County Engineer.
 - b. Applications made under any unique development sequence established in Section 3.02.B below shall individually comply with the expiration of approval and application requirements established in Section 2.05 above.

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4. Unless permitted in accordance with Section 3.02.A.2 above, application steps outlined in their respective unique development sequences established in Section 3.02.B below shall receive either approval or approval with conditions in accordance with Section 2.05 above before a project proceeds to the following step in the respective development sequence.
5. If details or findings, including supporting studies, associated with any previous application step outlined in Section 3.02.B below are changed significantly, the County Engineer may require an applicant to seek additional review and action on the previously completed application step.
 - a. For the purposes of this Section 3.02.A.5, “changed significantly” shall include the alteration of previously approved design specifics, or the finding of new facts that change baseline assumptions that would result in the alteration of design specifics, that significantly impact the design approach of a project, as determined by the County Engineer.
 - b. Required additional review of a previously approved application under Section 2.05 above shall supersede the previous approval.
 - c. The following alterations to a previously approved application automatically qualify as “changed significantly” under this Section 3.02.A.5:
 - i. Any increase to the size of the subject property;
 - ii. Any increase in the number of residential lots within the subject property; or
 - iii. Any changes to or expirations of approvals or authorizations made from external agencies, including utility providers.
 - d. An applicant may appeal a determination made by the County Engineer authorized within this Section 3.02.A.5 to the Commissioners Court.

B. Unique Development Sequences.

Applications for a project shall be made in accordance with one (1) of the following development sequences:

1. Development Sequence #1: Conventional.

Projects developing under this Section 3.02.B.1 shall apply for approvals in the following application steps, as applicable:

- a. Step #1 (Optional): Schedule and participate in a pre-application meeting in accordance with Section 2.02 above;
- b. Step #2: Submit and receive approval of a Preliminary Plan application in accordance with Section 3.04.A below;
- c. Step #3: Submit and receive approval of a subdivision application and accompanying construction plan in accordance with Section 3.04.B below;
- d. Step #4: Construct all public and private improvements illustrated in the construction plan set approved in accordance with Section 3.02.B.1.c above;

- e. Step #5: Receive County inspection approval of all improvements constructed in accordance with Section 3.03 below;
- f. Step #6: The County accepts maintenance of improvements by action of the Commissioners Court, if applicable, in accordance with Section 3.03.C.3 below;
- g. Step #7: Provide any fiscal security for improvements in accordance with Section 3.02.C below; then
- h. Step #8: Record the subdivision with the County Clerk in accordance with Section 3.01.E above.

2. Development Sequence #2: Alternative Subdivision Approval (HB 3167).

Projects developing under this Section 3.02.B.2 shall apply for approvals in the following application steps, as applicable:

- a. Step #1 (Optional): Schedule and participate in a pre-application meeting in accordance with Section 2.02 above;
- b. Step #2: Submit and receive conditional approval of a subdivision application and accompanying construction plan in accordance with Section 3.04.B below, including a security bond for the value of public facilities in accordance with Section 3.02.C below;
- c. Step #3: Construct all public and private improvements illustrated in the construction plan set approved in accordance with Section 3.02.B.2.b above;
- d. Step #4: Receive County inspection approval of all improvements constructed in accordance with Section 3.03 below;
- e. Step #5: The County accepts maintenance of improvements by action of the Commissioners Court, if applicable, in accordance with Section 3.03.C.3 below;
- f. Step #6: Following resolution of all conditions for approval, record the subdivision with the County Clerk in accordance with Section 3.01.E above.

C. Fiscal Surety for Subdivision Improvements.

1. Fiscal Surety in General.

- a. In addition to this Section 3.02.C, fiscal surety shall be made in accordance with *TLGC Section 232.004* and *TLGC Section 232.0045*.
- b. Fiscal surety is a financial commitment provided to the County to ensure that the infrastructure required to support the associated subdivision will be constructed and maintained to the standard set forth by these regulations.
- c. Fiscal sureties shall provide that, should these bonds be found unenforceable as a statutory bond, the County shall be bound by their contract as a common law obligation.

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- d. The County requires that appropriate fiscal surety be posted prior to the recordation of a subdivision in accordance with Section 3.01.E above, unless the applicant elects to have the subdivision held in abeyance and to construct the improvement prior to recordation in accordance with the development sequences outlined in Section 3.02.B above.
 - i. If any form of fiscal surety is scheduled to expire prior to the end of the activity it secures, the County shall take any action required to get the fiscal extended by the applicant, or the County shall collect the funds from the surety and hold them in trust until the activity being secured is completed.
 - ii. If the surety for a recorded subdivision expires before construction of the public improvements has been completed, the surety shall be re-posted by the party responsible for the construction of such improvements before construction continues.
 - e. Alternate forms of surety may be accepted by the County as long as the financial instrument and associated surety agreement satisfy the requirements of this Section 3.02.C.
 - f. The surety company underwriting the surety must hold a certificate of authority from the Secretary of the Treasury of the United States, and must be licensed to write such sureties in the State of Texas.
2. Acceptable Forms of Surety.

The following forms of surety are considered acceptable for insuring an applicant's promise to properly construct and maintain the public improvements in a subdivision.

a. Bonds.

Construction and maintenance bonds are considered to be the standard form of fiscal surety for subdivision improvements in the County, and they shall meet the requirements of this Section 3.02.C when used.

b. Letter of Credit.

- i. The County, at its sole discretion, may accept a letter of credit as fiscal surety for the construction of improvements and the subsequent maintenance period.
- ii. The offer of a letter of credit in lieu of a bond shall be accompanied by a letter of credit surety agreement signed by the applicant.
- iii. On the date that the Commissioners Court approves a letter of credit surety in lieu of a bond, the County Judge shall sign the agreement, and copies shall go to the applicant, to official records, and to the County Treasurer.
- iv. The conditions of the letter of credit surety agreement are as stated on the forms provided by the County.
- v. The general conditions of the letter of credit surety agreement are the same as those stated for the construction and maintenance bonds.

3. Construction Bond.

- a. If an applicant elects to file a subdivision prior to construction of required improvements, the applicant shall file a construction bond, executed by a surety company authorized to do business in the State of Texas, and made payable to the County in the amount of one hundred percent (100%) of the cost of construction of said improvements.
 - i. Per *TLGC Section 232.004*, the amount of the construction bond shall not exceed the estimated cost of construction of the roadways, streets, and drainage requirements.
 - ii. The estimate will be based on the approved construction plans and current costs for such work, based on an estimate for the construction of all public improvements prepared by a Texas Registered Professional Engineer and approved by the County Engineer.
- b. Construction bonds to be filed with the County Engineer shall be provided in a form approved by the County prior to the approval of the subdivision recording or shall be provided as directed by the County Engineer if no subdivision is filed.
- c. The construction bond shall require that the applicant begin construction of the public improvements shown on the subdivision application and accompanying documents as soon as possible after the date of approval of the subdivision by the County, or as directed.
 - i. The applicant shall complete such construction in accordance with the approved subdivision and accompanying documents within a period agreed to between the applicant and the County Engineer, which shall not exceed two (2) years.
 - ii. The construction bond shall remain in full force and in effect until all public improvements in the subdivision have been completed to the satisfaction of the County Engineer or their agent, and the obligation has been released by official action of the County Engineer.

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- iii. The construction bond period may be extended by mutual agreement of the Commissioners Court and applicant, provided this extended agreement includes an increase in the bond amount to cover any cost increases accrued since the date of the original agreement.
 - d. In the event that any or all of the public improvements are not completed within the timeframe established in accordance with Section 3.02.C.3.c above, and if the applicant refuses to correct defects called to their attention in writing by the County Engineer, the unfinished improvements shall be completed upon execution of the construction bond.
- 4. Maintenance Bond.
 - a. In order to guarantee that public improvements are maintained in good condition for two (2) years following inspection approval of the public improvements in accordance with Section 3.03.C below and filing of a subdivision, the applicant shall file a maintenance bond, executed by a surety company authorized to do business in the State of Texas, and made payable to the County in the amount of no less than twenty-five percent (25%) of the construction cost of the improvements.
 - i. The maintenance bond binds the applicant to maintain the newly constructed public improvements and to correct any defects in materials, workmanship (including utility and driveway backfill materials), design or construction inadequacies, or damages caused by the applicant or agent of the applicant which may be discovered within the two (2) year maintenance period
 - ii. The surety instrument shall not bind the applicant to repair damages to public improvements caused by third-parties following the inspection approval of the public improvements.
 - iii. If cash surety is elected by the applicant, it shall remain as security for a period of twenty-four (24) months unless otherwise stated in this Section 3.02.C.4.
 - iv. If a bond or letter of credit is elected by the applicant, it shall remain as security for a period of twenty-four (24) months unless otherwise stated in this Section 3.02.C.4.
 - b. A maintenance bond shall be filed with the County prior to acceptance by the Commissioners Court and shall be maintained throughout the duration of the maintenance period.

- c. The applicant shall correct or cause the contractor to correct, at their own expense, damages or defects due to improper construction or maintenance within thirty (30) days after receiving written notice of such defects from the County.
 - i. If the applicant fails or refuses to correct such defects within the thirty (30) day period, or fails to provide acceptable assurance that such work will be completed within a reasonable time thereafter, the County may elect to correct or cause to be corrected any such damages or defects, charging any and all expenses incurred against the maintenance bond.
 - ii. Surety shall be released by official action of the County Engineer if the project exists in a good state of operation and repair, which meets County standards, for a period of two (2) years from the date of official release of construction surety.
 - iii. If repairs are required within six (6) months of the surety expiration date, then the surety shall be extended or a new surety instrument shall be provided for a period equaling and not exceeding one (1) year.
 - iv. The County Engineer reserves the right to limit the issuance of permits (e.g., driveway, access, right-of-way) contingent on the owner making required repairs identified by the County throughout the maintenance period.
 - v. An applicant may appeal a determination made by the County Engineer in accordance with Section 3.02.C.4.c.iv above to the Commissioners Court no later than ten (10) business days following receipt of the determination of the County Engineer.
- d. The applicant shall request periodic inspections at six (6) month intervals of all public improvements for which maintenance surety is held.
 - i. The inspection shall be made by the County Engineer in concert with the applicant during the period of liability covered by the maintenance bond and in accordance with Section 3.02.C.4 above.
 - ii. In the event any or all of the public improvements are not being properly maintained in accordance with this Section 3.02.C.4, the applicant will be so advised in writing, and if, after a reasonable time determined by the County Engineer, they fail or refuse to perform proper maintenance of the public improvements, they may then be maintained at the cost and expense of the developer or contractor as provided by this Section 3.02.C.4.

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5. Collection and Release of Sureties.

a. Collection of Sureties.

- i. The County Engineer is authorized to execute notices of intent to collect on posted surety without the necessity of Commissioners Court action; however, the Commissioners Court shall authorize the formal collection of the surety.
- ii. The County may recover on construction and maintenance bonds more than once, so long as the total fiscal amount of recoveries does not exceed the total amount of the surety.
- iii. The County may draw upon any surety posted under this agreement upon the occurrence of one or more of the following events:
 - (A) The failure of the applicant to construct or complete the public improvements to applicable County standards;
 - (B) The applicant's failure to renew or replace the surety at least forty-five (45) days prior to its expiration, if applicable;
 - (C) The acquisition of the property or a portion of the property by the issuer of the surety or other creditor through foreclosure or an assignment or conveyance in lieu of foreclosure;
 - (D) The arrangement by the Commissioners Court for the completion of one (1) or more of the public improvements; or
 - (E) The determination by the Commissioners Court that the County should complete one (1) or more of the public improvements in the interest of the public.
- iv. The collection of surety and the implementation of construction to complete necessary public improvements to the extent possible with the resulting funds does not constitute ongoing maintenance and acceptance of the public improvements by the County.
 - (A) The County is not a subdivision developer and, therefore, if it undertakes the performance of such construction through a third-party contractor, the County is acting as a third-party trustee on behalf of the public.
 - (B) Requests for collection of securities must be approved by the Commissioners Court and signed by the County Judge and, in the case of collection for construction, only after it has been determined that failure to complete construction, extend the surety instrument's period of coverage, or correct deficiencies is not due to weather, natural disasters, or other reasons beyond the applicant's control.

b. Release of Fiscal Surety.

- i. For the purposes of this Section 3.02.C.5.b, “substantial completion” shall be defined as the date ten (10) days prior to the date that, in the opinion of the applicant or their consulting engineer, all anticipated development work will be finished.
- ii. On this date, the applicant will:
 - (A) Notify the County Engineer in writing that the work has been substantially completed;
 - (B) Request a punch list of unfinished work from the County Engineer to be completed in the (10) working days;
 - (C) Provide a complete compilation of all testing reports associated with the project construction; and
 - (D) Submit a letter of substantial completion by the applicant’s consulting engineer, indicating their concurrence that all construction has been completed in compliance with the approved construction plan and specifications.
- iii. Within five (5) working days after the County Engineer has received written notice that the work has been substantially completed in accordance with Section 3.02.C.5.b.ii above, the County Engineer shall review the work and provide a written punch list with the following information and documentation to the applicant:
 - (A) Photographic documentation supporting the remaining punch list items;
 - (B) Any remaining items discovered that do not comply with the construction documents or any previous approvals associated with the development project;
 - (C) County requirements not completed; and
 - (D) Any other items required for the issuance of the approval of the construction letter.
- iv. If needed, a construction approval meeting may be held at the site of the work and at a time agreed to by the County Engineer and the applicant.
 - (A) The applicant shall be responsible for inviting contractors to the meeting as appropriate, including the consulting engineer.
 - (B) An approval of construction letter will be issued by the County within five (5) days of the meeting if all punch list items are rectified.

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- (C) If there are exceptions, a letter of exception will be issued instead, with reasons stated for the exceptions.
 - (D) An approval of construction letter will then be issued when the exceptions are adequately addressed in the opinion of the County Engineer.
- v. The approval of construction letter will be issued contingent upon the following documents being supplied to the County:
 - (A) A construction and materials test report;
 - (B) The consulting engineer's letter of substantial completion;
 - (C) Construction Plans, certified as "as-built drawings" and containing the following language, if applicable, by the consulting engineer:

"I, _____, General Contractor for _____ development, certify that the improvements shown on this sheet were actually built, and that said improvements are shown substantially hereon. I hereby certify that, to the best of my knowledge, the materials of construction and sizes of manufactured items, if any, are stated correctly hereon."

_____ (General Contractor)

"I hereby attest that I am familiar with the approved drainage plan and associated construction drawings and furthermore, attest that the drainage facilities have been constructed within dimensional tolerances prescribed by the Brazos County Engineering Design Guidelines and in accordance with the approved construction Plans or amendments thereto approved by Brazos County."

_____ (Licensed Professional Engineer)

State of Texas No. _____
 - (D) The cash, bond, or letter of credit for the two (2) year maintenance period for public improvements; and
 - (E) If applicable, a copy of the Conditional Letter of Map Amendment (CLOMA) or Revision (CLOMR) from FEMA and the completed application for a CLOMA or CLOMR.
- vi. After the approval of construction letter has been issued, the construction will be monitored by the County for the two (2) year maintenance period.

- vii. In addition to the two (2) year maintenance warranty on construction, developers of proposed public improvements which will not be maintained by the County shall demonstrate financial responsibility for public improvements by providing proof of the following:
 - (A) Escrowed funds totaling, or insurance covering, ten percent (10%) of the construction cost for emergency repairs; and,
 - (B) Mechanisms for collecting dues from future associated property owners, or property tax assessments established and sufficient to support annual maintenance costs and to support a 30-year sinking fund dedicated to the long-term operation and maintenance of public improvements which will not be maintained by the County
 - (C) The County reserves the right to require financial records and to audit financial data for future associated property owners to ensure ongoing financial responsibility is provided for any public improvements not maintained by the County.
- viii. In lieu of leaving the fiscal surety in place for the maintenance period, the applicant may submit cash, a maintenance bond, or a letter of credit in a total sum of twenty-five (25%) of the cost of the construction of the public improvements, guaranteeing the work and warranties.
 - (A) The subdivision will not begin the required two (2) year maintenance period until such cash, bond, or letter of credit is furnished and approved by the County.
 - (B) The surety company underwriting the bond or bonds shall be acceptable if it is listed in the latest list of companies holding certificates of authority from the Secretary of the Treasury of the United States, and if it is licensed to write such bonds in the State of Texas.
- ix. After the approval of construction letter has been issued, the public improvements will be monitored by the County during the two (2) year maintenance period.
 - (A) If failures or damages appear, the applicant will be notified to make corrections.
 - (B) Upon expiration of the two (2) year maintenance period, and if no damages or defects have been identified and reported to the applicant by the County Engineer, the County will release the maintenance surety.

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- x. The County Engineer shall notify the Commissioners Court of the satisfactory construction and maintenance of public improvements.
 - (A) The Commissioners Court may then authorize accepting public improvements for permanent County maintenance.
 - (B) The County is under no obligation to accept the public Improvements for permanent County maintenance.
 - (C) Upon issuance of final maintenance acceptance of the public improvements, the County will fully release all posted surety for public improvements.
 - xi. Subdivisions developing in sections or phases shall be eligible for a release of fiscal surety on a phase-by-phase basis if each phase is found compliant with the construction and ongoing maintenance standards of this Section 3.02.C.
6. Developer Participation Contracts.
- a. General Requirements.
 - i. Per *TLGC Section 232.105*, without complying with the competitive sealed bidding procedure of *TLGC Chapter 262*, the County may contract with a developer to construct public facilities and infrastructure, not including a building, related to the development.
 - ii. If a developer participation contract does not meet the requirements of this Section 3.02.C.6, the contract shall be governed by *TLGC Chapter 262*
 - iii. In the event of a conflict between the terms of a contract between the County and a developer to construct public facilities and infrastructures and the terms of an active interlocal agreement between the County and an incorporated municipality, the terms of the active interlocal agreement shall prevail.
 - b. The Developer shall construct the public improvements in accordance with the development participation contract, and the County shall participate in the cost of the public improvements.
 - i. The County shall limit its participation to not exceed thirty percent (30%) of the total contract price.
 - ii. In addition, the contract may also allow participation by the County at a level not to exceed 100 percent (100%) of the total cost for any oversizing of improvements required by the County, including but not limited to increased capacity of improvements to anticipate other future development in the area.

- iii. The County shall be liable only for the agreed payment of its share, which shall be determined in advance either as a lump sum or as a factor or percentage of the total actual cost as determined by an order of the Commissioners Court.
- iv. The order adopted by the Commissioners Court in accordance with Section 3.02.C.6.b.iii above may include additional safeguards to protect the County against undue financial burden, collusion, or fraud.
- c. The Developer shall execute a performance bond for the construction of the improvements to verify completion of the project.
- d. The bond executed in accordance with Section 3.02.C.6.c above shall be executed by a corporate surety in accordance with *Texas Government Code Chapter 2253*.

D. Subdivisions Within a Municipality's ETJ.

1. General Requirements.

- a. A proposed subdivision located wholly or partially within the extraterritorial jurisdiction of a municipality shall be processed in accordance with applicable State law, any effective interlocal agreement between the County and municipality, and these regulations to the extent applicable.
- b. Prior to submission of a subdivision application, the applicant shall determine the municipality having extraterritorial jurisdiction over the subject property and identify any applicable interlocal agreement governing subdivision regulation, plat approval, or related permits.

2. Identification of Decision-Making Authority.

- a. The applicant shall be responsible for identifying whether the subject property is located within a municipality's extraterritorial jurisdiction and shall provide documentation reasonably necessary for the County to determine the applicable jurisdiction, interlocal agreement, and decision-making authority.
- b. The County shall identify, based on applicable State law and any effective interlocal agreement, the governmental entity authorized to regulate the subdivision plat and approve related permits for the subject property.
 - i. Where an applicable interlocal agreement designates the municipality as the governmental entity authorized to regulate subdivisions and approve related permits, the municipality shall serve as the decision-making authority for the applicable subdivision or permit.
 - ii. Where an applicable interlocal agreement designates the County as the governmental entity authorized to regulate subdivisions and approve related permits, the County shall serve as the decision-making authority for the applicable subdivision or permit.
- c. Where no applicable interlocal agreement exists, the County and applicant shall follow the procedures and allocation of authority established by applicable State law.

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1.01.

3. Review of Applications When the County Is Not the Decision-Making Authority.

- a. Where the County is not the decision-making authority for a subdivision or related permit, the applicant may be required to provide the County with a copy of the application or other materials for reference, coordination, or technical review when authorized by applicable State law or an interlocal agreement.
- b. Comments or recommendations provided by the County pursuant to this Section shall not constitute approval, disapproval, or conditional approval of the subdivision or related permit unless the County is the governmental entity authorized to take such action.

4. County Requirements Applicable Within the ETJ.

- a. County requirements may be imposed on a subdivision within a municipality's extraterritorial jurisdiction only to the extent that such requirements are authorized by applicable State law or an effective interlocal agreement and are applicable to the governmental entity exercising regulatory or approval authority.
- b. Nothing in these regulations authorizes the County to impose a subdivision requirement that is inconsistent with an effective interlocal agreement or applicable State law.

5. Urban and Rural Classification.

The classification of a subdivision as an Urban Subdivision or Rural Subdivision under Section 4.01 below shall establish the applicable County standards to the extent the County is authorized to regulate the subdivision, but shall not independently determine which governmental entity has regulatory or approval authority within a municipality's extraterritorial jurisdiction.

3.03. Subdivision Construction Procedures.

A. Construction Plan Required.

1. Purpose and Applicability.

a. Purpose.

The purpose of a Construction Plan is to verify that the proposed development or subdivision is consistent with all standards of these regulations, and the Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines, pertaining to the adequacy of public facilities, and to protect the health, safety, morals, or general welfare of the County and the safe, orderly, and healthful development of the unincorporated area of the County in accordance with *TLGC Section 232.101*.

b. Applicability.

- i. Unless otherwise exempted by these regulations, a Construction Plan shall be required when an owner divides a tract into two (2) or more parts to lay out:
 - (A) A subdivision of the tract, including an addition;
 - (B) Lots; or
 - (C) Streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use.
- ii. For the purposes of this Section 3.03.A, “parts of the tract intended by the owner of the tract to be dedicated to public use” shall include the reservation of an area, improvement, or easement, regardless of whether done so by subdividing the subject property, that:
 - (A) Is designed and provided for in accordance with these regulations;
 - (B) Is provided to mitigate the impacts of developing or subdividing the subject property or additional properties beyond the subject property; or
 - (C) Is publicly accessible, usable, or maintained.
- iii. Determination of Construction Plan Applicability.
 - (A) The County Engineer shall have the authority to determine when a Construction Plan is required for a development project in accordance with this Section 3.03.A.
 - (B) An applicant may appeal a determination made by the County Engineer in accordance with Section 3.03.A.1.b.iii(A) above to the Commissioners Court no later than ten (10) business days following the determination of the County Engineer.

2. Submission Requirements.

- a. An applicant shall submit construction plans for all public and private improvements proposed within a development project in accordance with the appropriate development sequence established in Section 3.02.B above.
- b. In addition to the development application criteria established in accordance with Section 2.05.A above, construction plans shall show the location of all water, sanitary sewer, and storm sewer utilities, and shall show proposed easements for privately-owned utilities
- c. Construction plans shall be designed in accordance with the standards of these regulations and the Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines, pertaining to the adequacy of public facilities.

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3.03. Subdivision Construction Procedures.

B. Pre-Construction Meeting

1. Unless otherwise determined by the County Engineer, a pre-construction conference is required prior to the start of any construction.
2. In determining whether a pre-construction conference is necessary, the County Engineer may consider whether the project includes County-inspected improvements, work within County rights-of-way, improvements proposed for County maintenance, or another identified County interest.
3. At a minimum, the pre-construction meeting shall include the contractor, County Engineer, and the applicant's engineer.
4. If construction of the development project is divided among multiple contractors, the applicant shall designate one (1) representative for the entire development project.
5. Only one (1) pre-construction meeting is required; additional pre-construction meetings may be scheduled on an as-needed basis as determined by the County Engineer.

C. Inspection of Public Improvements.

1. General Inspection Requirements and Enforcement

- a. All construction of improvements and utilities located within any County right-of-way, regardless of ownership or maintenance responsibility, shall be subject to inspection by the County or the County's designated third-party inspector and shall be constructed in accordance with the approved construction plans and applicable standards.
- b. The applicant shall submit a detailed construction quantity take-off and inspection activity schedule to the County Engineer that lists the frequency of all required material sampling and testing required by these regulations, as well as all design-specific requirements, including but not limited to site-specific geotechnical studies. This submittal shall address inspection and testing requirements by construction phase for both proposed County-maintained improvements and privately-maintained improvements.
- c. The applicant shall identify a qualified independent testing laboratory for all required construction material analysis and evaluation.
- d. Upon agreement between the County Engineer and the applicant regarding the content of the submittals required by this Section 3.03.C.1, the County Engineer shall issue a written notice of approval of the construction material sampling and testing methodology for construction of all public improvements associated with the development project.
- e. Periodic inspections shall be performed by the County or the County's third-party inspector during construction activities of proposed County-maintained improvements. The County may inspect public improvements that will be privately-maintained.

- f. A request for inspection shall be submitted to the County Engineer or their designee in writing via email, or by other agreed written communication method, and shall include, at a minimum, the development project name, date, the type of inspection requested, and the desired date and time of inspection.
 - g. Where the County is required to re-inspect a development project beyond the minimum frequency established within this Section 3.03.C, the County Engineer may assess additional inspection fees to cover the costs of each re-inspection visit.
 - h. Inspection Timing.
 - i. Inspections required by this Section 3.03.C shall be scheduled no later than 2:00 p.m. (CST) of the business day two days prior to the date requested for each specific area of public improvements inspection required by this Section.
 - ii. The owner shall present a phasing schedule for substantial completion and final inspection of all public improvements at least four (4) months prior to the conclusion of the designated maintenance surety period established in Section 3.02.C.4 above.
 - i. All construction material reports shall be complete and submitted with the request for inspection.
 - j. The reinforcing steel in cast-in-place concrete structures shall be inspected prior to pouring of concrete.
 - i. All cast-in-place structures shall meet the Bryan/College Station Unified Design Guidelines standards, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines.
 - ii. The inspection of reinforcing steel in cast-in-place concrete structures shall be conducted by a qualified inspector (e.g., based on ACI or ICC concrete construction special inspector protocols or other certified technical competency by degree or training).
 - iii. Cast-in-place concrete structures with uninspected reinforcing steel may be considered defective and shall be removed and replaced at the applicant's expense, subject to the County Engineer's discretion.
2. Final Inspection Required.
- a. The applicant shall schedule a final inspection following the completion of the following construction milestones, as applicable:
 - i. All previous inspections have been executed, and punch list items have been addressed; and
 - ii. All tests for pavement have passed.
 - b. Once all improvements are inspected and found constructed in accordance with all previously approved plans, as-built drawings shall be prepared and submitted to the County Engineer for recordation purposes.

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3.03. Subdivision Construction Procedures.

3. Stop-Work and Enforcement Authority.

- a. Either the development project Engineer of Record or the County Engineer have the authority to issue a stop-work order if, through conducting an inspection or testing, it is determined that a development is being constructed in a manner that does not fully comply with these regulations or previously approved plans.
- b. Both the development project Engineer of Record and the County Engineer are authorized to require corrective reconstruction of non-compliant work at the sole expense of the developer.
- c. The County maintains the right to withhold ownership and maintenance responsibility for public improvements determined to be constructed in a non-compliant manner.

D. Approval and Acceptance of Public Improvements.

1. Approval of Construction.

- a. Any alterations from approved plans resulting from construction activities shall be prepared by the owner for review by the County Engineer.
- b. If improvements to existing TxDOT-controlled roadway facilities are required, construction of such improvements shall be complete and copies of correspondence from TxDOT acknowledging such improvements have been completed in accordance with all associated TxDOT permits or agreements shall be submitted to the County Engineer prior to requesting a final inspection in accordance with Section 3.03.C.2 above.
- c. If TxDOT does not issue separate completion or acceptance correspondence for the work, the applicant may satisfy the acknowledgment requirements by providing the applicable TxDOT permit or agreement, required close-out documentation, and engineer of record certification that the work was completed in accordance with the permit or agreement.
- d. Upon completion of construction and verification by the County Engineer that all public infrastructure has been completed in accordance with all approved plans and these regulations, the County Engineer shall issue an approval of construction letter.
- e. Issuance of an approval of construction letter in accordance with Section 3.03.D.1.d above shall not constitute acceptance by the County of any improvement for County maintenance or ownership.
 - i. Unless otherwise accepted for dedication by the County in accordance with this Section 3.03.D.2 below, all improvements shall remain owned and maintained by the owner of the subject property.
 - ii. Public improvements, regardless of ownership and maintenance responsibility, shall be constructed in compliance with the Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines, and all other applicable provisions of these regulations.

2. Maintenance Acceptance of Improvements.

- a. The owner is responsible for maintenance of all improvements unless otherwise dedicated to and accepted by the County.
 - i. The County's acceptance of any public improvement for maintenance and ownership is optional and at the discretion of the Commissioners Court.
 - ii. The recording of a subdivision does not constitute final maintenance acceptance or responsibility by the County.
 - iii. The County will consider accepting a road for maintenance only after dedication to the public of the Right-of-Way and final approval of all roadway construction by the County.
- b. Approval or recordation of a subdivision, approval of Construction Plans, issuance of an approval of construction letter, or release of a construction or maintenance surety does not, by itself, constitute acceptance by the County for ownership or maintenance.
- c. Following the construction of all improvements, but prior to consideration of final maintenance acceptance of improvements by the County, the owner shall provide a maintenance bond in accordance with Section 3.02.C.4 above.
- d. The County may not accept maintenance responsibility or ownership of improvements outside of roadway facilities and rights-of-way.
 - i. Maintenance and liability of improvements, including landscaping, illumination, sidewalks, water quality ponds, or any other improvements required by other governmental agencies, shall not be the responsibility of the County.
 - ii. If landscaping, irrigation, sidewalks, illumination, water quality ponds, or other improvements are proposed within a roadway facility or right-of-way, the owner and all future owners of property shall be responsible for the maintenance and liability of these improvements.

3. Repair of Damage to Existing County Facilities.

- a. Prior to consideration of final maintenance acceptance, any damage to existing County facilities resulting from construction shall be repaired by the owner at their expense, and to the satisfaction of the Commissioners Court.
- b. This Section 3.03.D.3 is intended to establish a fair and objective process for determining whether damage to existing County-owned or County-maintained facilities is attributable to development project or subdivision construction activity, and for assigning responsibility for repair of any such damage.

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3.03. Subdivision Construction Procedures.

- c. This Section 3.03.D.3 applies to any development project or subdivision construction activity, including clearing, grading, hauling, utility installation, roadway construction, drainage construction, or related contractor operations, that may affect existing County-owned or County-maintained facilities and improvements located within a County right-of-way that may be impacted by development, utility installation, homebuilding, hauling, contractor operations, or other construction activity.
- d. Baseline Documentation Required.
 - i. Before commencement of any project construction activities, the developer shall document the pre-construction condition of all County-owned or County-maintained facilities that:
 - (A) Are within or adjacent to the project frontage;
 - (B) Are located within any approved haul route, construction access route, or utility tie-in area; or
 - (C) Are otherwise identified by the County Engineer as reasonably susceptible to project-related damage.
 - ii. Baseline documentation shall include, at a minimum:
 - (A) Dated color photographs or continuous video showing the condition of the affected facilities;
 - (B) Mapped limits of the documented area;
 - (C) Written notes identifying visible cracking, rutting, settlement, potholes, edge failure, culvert distress, erosion, drainage blockage, striping condition, sign condition, or other observable deficiencies existing before construction; and
 - (D) Any additional condition data reasonably required by the County Engineer for the facility type at issue.
 - iii. The County Engineer may perform, witness, or supplement the baseline documentation. Failure of the County Engineer to supplement the baseline documentation shall not invalidate a properly submitted baseline record
 - iv. If the applicant fails to provide required baseline documentation before construction begins, the County may document existing conditions itself, and that documentation may be used for purposes of this Section.

e. Presumption and Burden of Proof

i. The County shall bear the initial burden of showing that:

- (A) Damage to an existing County-owned or County-maintained facility occurred after the baseline documentation date; and
- (B) The damage is more likely than not attributable, in whole or in part, to the project's construction activity, hauling activity, contractor operations, utility work, or related access activity.

ii. A determination under this Section 3.03.D.3 must be supported by substantial evidence in the development project or subdivision record and must be based on a preponderance of the evidence.

iii. Evidence that may be considered includes:

- (A) Preconstruction and post-damage photographs or videos;
- (B) Inspection reports, field logs, and dated observations by County staff or third-party inspectors;
- (C) Haul-route designations, contractor access records, or traffic-control plans;
- (D) Geotechnical, pavement, drainage, or materials testing data, if relevant;
- (E) Reports or certifications from the Engineer of Record or other licensed professionals;
- (F) Timing and location of utility cuts, trenching, bore pits, equipment staging, or heavy-truck traffic; and
- (G) The nature, pattern, and extent of the damage in relation to the project activities.

iv. The County shall not require the applicant to repair damage unless the County makes a written finding that the evidentiary standard in Section 3.03.D.3.e.ii above has been satisfied.

f. Exclusions.

i. The developer shall not be responsible for:

- (A) Deterioration shown in the baseline documentation to pre-date project construction;
- (B) Normal wear and tear caused by the general public;
- (C) Damage caused solely by third parties not under the direction or control of the applicant, developer, owner, contractor, subcontractor, utility installer, or their agents;

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3.03. Subdivision Construction Procedures.

- (D) Force majeure events, including flooding or other natural events, except to the extent the project directly caused or materially worsened the condition; or
 - (E) Unrelated failure of an existing facility due to age, latent defect, or pre-existing structural deficiency not caused or accelerated by the project.
- g. Notice of Alleged Damage.
 - i. If the County believes construction project-related damage has occurred, the County Engineer shall provide written notice to the developer describing:
 - (A) The location and nature of the alleged damage;
 - (B) The factual basis for believing the damage is attributable to the project;
 - (C) The evidence currently supporting that conclusion; and
 - (D) The proposed corrective action or further investigation required.
 - ii. Except in an emergency affecting public health, safety, or welfare, the developer shall be given not less than ten (10) business days to inspect the alleged damage and submit a written response to the County Engineer.
- h. Opportunity to Rebut.
 - i. The developer may rebut the County's claim by submitting contrary evidence, including:
 - (A) Baseline documentation;
 - (B) Contractor logs or haul records;
 - (C) Expert or Engineer of Record opinions;
 - (D) Proof that the alleged damage existed before construction;
 - (E) Proof that the damage was caused by unrelated third-party work or public traffic; or
 - (F) Proof that the damage resulted from pre-existing conditions or ordinary deterioration.
 - ii. Upon request of the developer, the County Engineer may conduct a joint site inspection with the applicant and the Engineer of Record before issuing a final determination.
- i. Final Determination.
 - i. After considering the County's evidence and any rebuttal submitted by the applicant, the County Engineer shall issue a written determination stating:
 - (A) Whether the damage is attributable to the project, in whole or in part;
 - (B) The evidentiary basis for that determination;
 - (C) The specific repair work required;

- (D) The deadline for completion of repairs; and
- (E) Whether temporary measures are required to protect the public.
- ii. If the County determines that only a portion of the damage is attributable to the construction project, the developer shall be responsible only for the proportion of repair reasonably necessary to restore the construction project-attributable damage
- j. Emergency Authority.

If the County Engineer determines that a damaged facility poses an immediate threat to public health, safety, or welfare, the County may perform temporary or permanent emergency repairs without prior notice. In that event, the County shall provide prompt written notice afterward, together with documentation supporting any claim for reimbursement under this section.

- k. Repair Standard.

Repairs required under this section shall restore the affected facility to a condition reasonably equivalent to its preconstruction condition, excluding ordinary depreciation and pre-existing deficiencies documented in the baseline record, unless a higher repair standard is otherwise required by the County's adopted engineering standards for the specific repair.

- l. Appeal.

- i. The developer may appeal a final determination of construction project-attributable damage to the Commissioners Court by filing written notice within ten (10) business days after the County Engineer's determination.
- ii. The filing of an appeal shall not stay emergency protection measures but may stay permanent repair obligations unless the County Engineer determines a stay would create a public safety hazard.

- m. No Waiver of Other Remedies.

Nothing in this Section 3.03.D.3 limits the County's authority to require protection of public facilities during construction, to issue stop-work orders where authorized, or to seek reimbursement for proven project-attributable damage through any other lawful means.

Section 3. Platting and Construction Procedures.

3.04. Subdivision Application Types.

3.04. Subdivision Application Types.

A. Preliminary Plan.

1. Purpose and Applicability.

- a. The purpose of a Preliminary Plan is to allow the County to review the overall layout of the development project with respect to infrastructure systems, including roadway facilities, and water, sewer or OSSF, and drainage utilities, as well as to verify the general conformance of the overall layout with the requirements of these regulations.
- b. A Preliminary Plan is required for all subdivisions that do not meet the definition of a Simplified Plat, Replat, Amending Plat, or a Vacating Plat.
- c. Phased Developments.
 - i. A Preliminary Plan is required for all Subdivisions intended to be developed in more than one (1) phase.
 - ii. When a development project is to be constructed in more than one (1) phase, a Master Plan including the following information shall be submitted with the Preliminary Plan when applying for the initial submission in accordance with the development sequence established in Section 3.02.B above:
 - (A) The boundaries of the entire development with the locations of adjacent platted subdivisions and adjoining unplatted property, including the names of the record owners of each tract;
 - (B) The proposed phasing plan, including the boundaries of each individual phase and the proposed sequential order for platting and development;
 - (C) The location, width, and names of all existing or platted roadways or public rights-of-way and all existing easements within and adjacent to the development;
 - (D) The layout and width of proposed arterials, thoroughfares, and collector roads, and the general configuration of proposed roadways, alleys, and their rights-of-way;
 - (E) The general arrangement and designations of land uses with specification of any sites designated for special use (e.g., for parks, open space, detention, or other public facilities);
 - (F) The approximate location of the boundary of the existing and proposed 100-year floodplain and the location and width of drainage easements, channels, creeks, and water courses within the development;
 - (G) The location of proposed drainage courses and of any necessary off-site drainage improvements; and
 - (H) The location of all existing and proposed utilities and pipelines.

- iii. When a development project is to be constructed in more than one (1) phase, each phase shall stand alone and be capable of functioning independently with respect to utilities, drainage, flood detention, and access based on the anticipated ultimate development condition, unless an alternative phased-capacity plan is approved by the County Engineer.
 - d. Preliminary Plans shall include all required information outlined in the County's development application criteria established in Section 2.05.A above.
 - e. A Preliminary Plan is valid for a period of two (2) years from the date of approval by the County.
 - f. Subsequent subdivision applications serving as a phase of an approved Preliminary Plan shall extend the expiration date of the Preliminary Plan an additional two (2) years from the date the subdivision is approved by the County.
2. A Preliminary Plan shall identify the entity responsible for the operation and maintenance of all improvements.
3. Approval Criteria.

Approval of a Preliminary Plan is contingent upon:

- a. The adequate filing of a complete application in accordance with Section 2 above;
- b. The adequate timing of the application in relation to the unique development sequences established within this Section 3; and
- c. Adherence of the application and details illustrated therein to the requirements of these regulations, including those established in Section 4 below.

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3.04. Subdivision Application Types.

B. Subdivision Applications.

1. Simplified Plat.

a. Purpose and Applicability.

- i. The purpose of a Simplified Plat is to provide an expeditious means of creating small subdivisions with no impact on surrounding public facilities and property owners.
- ii. Unless otherwise exempted by Section 3.01.C above, a Simplified Plat shall be required in accordance with Section 3.01.A above where the following conditions apply:
 - (A) The subdivision establishes four (4) or fewer lots, including any remaining parent tract, or for creating one (1) lot where the daughter tract exceeds ten (10) acres;
 - (B) The subject property abuts an existing right-of-way meeting the minimum width and improvement standards of these regulations; and
 - (C) The dedication or extension of public facilities, including streets, alleys, easements, rights-of-way, or other public property or facilities, is not required to meet the minimum requirements of these regulations.
- iii. A Simplified Plat may be used to record a subdivision of property, or to record the remainder of a tract created by a Simplified Plat of a portion of a property, provided that:
 - (A) The Daughter Tract(s) are undeveloped or used for single-family residential development or agricultural purposes; and,
 - (B) Neither the Lot(s) established by the Simplified Plat, nor the Daughter Tract(s) of land or any portion thereof, has been previously recorded as a Simplified Plat within one (1) year of an application for a Simplified Plat involving any portion of said Lot(s) or Daughter Tract(s).
- iv. All lots created by a Simplified Plat shall have direct access to an existing roadway facility and right-of-way.

b. Approval Criteria.

Approval of a Preliminary Plan is contingent upon:

- i. The adequate filing of a complete application in accordance with Section 2 above;
- ii. The adequate timing of the application in relation to the unique development sequences established within this Section 3; and
- iii. Adherence of the application and details illustrated therein to the requirements of these regulations, including those established in Section 4 below.

2. Final Plat.

a. Purpose and Applicability.

- i. A Final Plat is a legal document defining the physical configuration and rules governing the development and operation of a subdivision.
- ii. The Final Plat shall be approved and recorded prior to the sale of any lots in a subdivision, or commencement of any construction activities on the proposed lots created by the plat.
- iii. The Final Plat shall not be approved prior to approval of the Preliminary Plan, but may be approved concurrently with the Preliminary Plan, subject to approval by the County Engineer.
- iv. The Final Plat shall be submitted concurrently with the construction plans in accordance with the development sequences established in Section 3.02.B above, and shall not be recorded prior to:
 - (A) Construction of the required public improvements in accordance with these regulations; or
 - (B) Posting with the County of fiscal surety for the construction of public improvements in accordance with Section 3.02.C above.

b. Approval Criteria.

Approval of a Final Plan is contingent upon:

- i. The adequate filing of a complete application in accordance with Section 2 above;
- ii. The adequate timing of the application in relation to the unique development sequences established within this Section 3; and
- iii. Adherence of the application and details illustrated therein to the requirements of these regulations, including those established in Section 4 below.

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3.04. Subdivision Application Types.

3. Replat.

a. Purpose and Applicability.

- i. A Replat is the process of creating a new Subdivision, and thereby changing the number of lots or modifying the lot configuration, from a previously platted lot.
- ii. All restrictions that were applicable to the original subdivision shall apply to the Replat.
- iii. Covenants, easements, notes, and restrictions shown on the original subdivision shall not be removed through a Replat process, unless they were previously established by a platting procedure.

b. Additional Considerations Imposed by the State.

- i. Per *TLGC Section 232.041*, a person owning real property that has been subdivided may apply to the County for permission to revise the subdivision that applies to the property and that is filed for record with the County Clerk.
- ii. Unless otherwise established in Section 3.04.B.3.b.iii below, the County shall publish notice of an application for subdivision revision in accordance with Section 3.01.D above.

- (A) The County shall publish a notice of the application in a newspaper of general circulation in the County.
- (B) The notice shall include a statement of the time and place at which the Commissioners Court will meet to consider the application and to hear protests to the revision of the plat.
- (C) The notice must be published at least three (3) times during the period that begins on the thirtieth (30th) business day and ends on the seventeenth (17th) business day before the date of the meeting.
- (D) If all or part of the subdivided tract has been sold to non-developer owners, the County shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

iii. Exceptions to Noticing Requirements.

- (A) Per *TLGC Section 232.009*, if the Commissioners Court determines that the subdivision revision does not affect a public interest or public property of any type, including a park, school, or road, the notice requirements established by Section 3.04.B.3.b.ii above do not apply to the application, and the County shall:
 - (1) Provide written notice of the application to the owners of the lots that are within two hundred (200) feet of the subdivision to be revised, as indicated in the most recent records of the central appraisal district of the County in which the lots are located; and

- (2) Post notice of the application continuously on the website for at least thirty (30) business days preceding the date of the meeting to consider the application until the business day after the meeting.
- (B) The County is not required to give notice by mail under Section 3.04.B.3.b.ii above if the subdivision revision only combines existing tracts.

iv. Action on Subdivision Revisions.

- (A) The County shall adopt an order to permit the revision of the subdivision if it is shown that:
 - (1) The revision will not interfere with the established rights of any owner of a part of the subdivided land; or
 - (2) Each owner whose rights may be interfered with has agreed to the revision.
- (B) The County shall take action on an application at a regular term.
- (C) If the County permits a person to revise a subdivision, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

c. Approval Criteria.

Approval of a Replat application is contingent upon:

- i. The adequate filing of a complete application in accordance with Section 2 above;
- ii. The adequate timing of the application in relation to the unique development sequences established within this Section 3; and
- iii. Adherence of the application and details illustrated therein to the requirements of these regulations, including those established in Section 4 below.

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3.04. Subdivision Application Types.

4. Amending Plat.

a. Purpose and Applicability.

- i. An Amending Plat is a subdivision used to address minor changes, correct clerical errors, or make limited modifications to a record plat where such changes affect a limited number of property owners or lots established by an existing subdivision.
- ii. Per *TLGC Section 232.011*, the County may approve and issue an amending plat if the amending plat is signed by the applicants and filed for one or more of the following purposes:
 - (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 in 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 subdivision, including lot numbers, acreage, street names, and identification of adjacent recorded subdivisions; or
 - (F) To correct an error in courses and distances of lot lines between two (2) adjacent lots if:
 - (1) Both lot owners join in the application for amending the plat;
 - (2) Neither lot is abolished;
 - (3) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (4) 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 subdivision.
 - (G) The amending plat controls over the preceding plat without the vacation, revision, or cancellation of the preceding plat.
 - (H) Notice, a hearing, and the approval of other lot owners are not required for filing, recording, or approving an amending plat.

b. Approval Criteria.

Approval of an Amending Plat application is contingent upon:

- i. The adequate filing of a complete application in accordance with Section 2 above;
- ii. The adequate timing of the application in relation to the unique development sequences established within this Section 3; and
- iii. Adherence of the application and details illustrated therein to the requirements of these regulations, including those established in Section 4 below.

5. Cancellation Plat.

a. Purpose and Applicability.

- i. A Cancellation Plat eliminates an existing subdivision of property recorded by a prior subdivision.
- ii. Per *TLGC Section 232.008*, a person owning real property located outside municipalities and the ETJ of municipalities, as determined under *TLGC Chapter 42*, that has been subdivided may apply to the County for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the establishment of the active subdivision.
 - (A) If, on the application, it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the County by order shall authorize the owner of the subdivision to file an instrument canceling the subdivision in whole or in part.
 - (B) The instrument shall describe the subdivision or the part of it that is cancelled.
 - (C) The County shall enter the order in its minutes.
 - (D) After the cancellation instrument is filed and recorded in the deed records of the County, the County Tax Assessor/Collector shall assess the property as if it had never been subdivided.

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3.04. Subdivision Application Types.

- iii. The County shall publish notice of an application for cancellation in accordance with Section 3.01.D above.
 - (A) The notice must be published in a newspaper, published in the English language, in the County for at least three (3) weeks before the date on which action is taken on the application in accordance with Section 2.05.C above.
 - (B) The Commissioners Court shall take action on an application at a regular term.
 - (C) The published notice shall direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice.
- iv. Delinquent Taxes for Cancelled Subdivisions.
 - (A) If delinquent taxes are owed on the subdivided tract for any preceding year, and if the application to cancel the subdivision is granted as provided by this Section 3.04.B.5, the owner of the tract may pay the delinquent taxes on an acreage basis as if the tract had not been subdivided.
 - (B) For the purpose of assessing the tract for a preceding year, the County tax assessor-collector shall back assess the tract on an acreage basis.
- v. Authorization Required.
 - (A) The County shall, by order, authorize a subdivision cancellation if the application is made by the owner or owners of seventy-five percent (75%) of the property included in the existing subdivision.
 - (B) Authorization made under this Section 3.04.B.5.a.v shall be made after proper notice and a hearing is provided in accordance with this Section 3.04.B.5.a.
 - (C) If the owner or owners of at least ten percent (10%) of the property included in the existing subdivision file written objection to the cancellation with the County, the authorization of an order of cancellation is at the discretion of the Commissioners Court.
 - (D) To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that:
 - (1) Abuts directly on the part of the roadway or easement to be canceled or closed; or
 - (2) Is connected by the part of the roadway or easement to be canceled or closed, by the most direct feasible route, to:
 - (a) The nearest remaining public highway, county road, or access road to the public highway or county road; or
 - (b) Any uncanceled common amenity of the subdivision.

- (E) A person who appears before the Commissioners Court to protest the cancellation of all or part of an existing subdivision may maintain an action for damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the person's original purchase price for property in the canceled subdivision or part of the subdivision.
- (F) The person must bring the action within one (1) year after the date of the entry of the Commissioners Court's order granting the cancellation.
- (G) For the purposes of this Section 3.04.B.5.a.v, "property included in the existing subdivision" shall include any phase, identifiable part, dedicated easement, or roadway.

vi. Cancellation of Obsolete Subdivisions

- (A) Per *TLGC Section 232.0083*, this Section 3.04.B.5.a.vi applies to a subdivision for which:
 - (1) A plat has been recorded for seventy-five (75) years or more;
 - (2) The most recent plat describes at least a portion of the property as acreage tracts;
 - (3) A previous plat described at least a portion of the property as lots and blocks; and
 - (4) The county tax assessor-collector lists the property in the subdivision on the tax rolls based on the description in the previous plat and assesses taxes on the basis of that description.
- (B) A person owning real property in the subdivision may apply to the County for permission to cancel an existing subdivision in whole or part and to reestablish the property using lots and blocks descriptions that, to the extent practicable, are consistent with the previous subdivision.
- (C) After notice and hearing in accordance with this Section 3.04.B.5.a, the County may order the cancellation of the existing subdivision plat and the reestablishment of the property in accordance with the application submitted under Section 3.04.B.5.a.vi(B) above if the court finds that:
 - (1) The cancellation and re-establishment do not interfere with the established rights of:
 - (a) Any owner of a part of the subdivision; or
 - (b) A utility company with the right to use a public easement in the subdivision; or

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- (2) Each owner or utility whose rights may be interfered with has agreed to the cancellation and re-establishment.
- (D) The County shall publish notice of an application for the cancellation and re-establishment.
 - (1) The notice must be published at least three (3) weeks before the date on which action is taken on the application and must direct any person who is interested in the property and who wishes to protest the proposed cancellation and re-establishment to appear at the time specified in the notice.
 - (2) The notice must be published in a newspaper that has general circulation in the County.
- (E) If the County authorizes the cancellation and reestablishment, the Commissioners Court shall, by order entered in its minutes, authorize the person making the application under this Section 3.03.D.2.e to record an instrument showing the cancellation and reestablishment

b. Approval Criteria.

Approval of a Cancellation Plat application is contingent upon:

- i. The adequate filing of a complete application in accordance with Section 2 above;
- ii. The adequate timing of the application in relation to the unique development sequences established within this Section 3; and
- iii. Adherence of the application and details illustrated therein to the requirements of these regulations, as applicable.

C. Variances and Appeals.

1. Subdivision Variance.

a. Purpose and Applicability.

- i. An applicant may request a Subdivision Variance from the design standards and processes established by these regulations where a hardship can be proven in accordance with Section 3.04.C.1.c below.
- ii. Subdivision Variances shall not be granted for alterations to state-mandated review and approval timelines or the financial surety requirements of these regulations.
- iii. Applications for a Subdivision Variance may accompany any application made in accordance with the development sequences established in Section 3.02.B above.
 - (A) The review and action of a Subdivision Variance shall be made at the same time as the consideration of the primary application in accordance with Section 2.05 above.
 - (B) Review and action of a primary application may be contingent on the Commissioners Court consideration of the Subdivision Variance.
 - (C) If made in conjunction with a primary application in which the Commissioners Court is not the decision-making authority in accordance with Section 2.01 above, consideration of the primary application shall be deferred to the Commissioners Court for action.
- iv. Where multiple variances are requested for the same development project, the decision-making authority may consider the cumulative effect of the requested variances in determining whether the criteria of this Section 3.04.C are satisfied.

b. Notice of Public Hearing.

Notice of public hearing for a Subdivision Variance shall be made in accordance with Section 3.01.D above.

c. Approval Criteria.

i. Consideration of Subdivision Variances.

- (A) A Subdivision Variance shall not be granted unless the decision-making authority (see Section 2.01 above) finds, at its discretion, that:
 - (1) There are special circumstances or conditions affecting the subject property that, if developed or subdivided in accordance with these regulations, would deprive the owner of reasonable use of the subject property;
 - (2) The Subdivision Variance is necessary for the preservation and enjoyment of a substantial property right of the owner of the subject property;

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- (3) The granting of the Subdivision Variance will not be detrimental to the health, safety, morals, or general welfare of the County, and will not be injurious to other property owners impacted by the development or subdivision; and
 - (4) The granting of the Subdivision Variance will not have the effect of preventing the orderly development or subdivision of other properties in the area in accordance with these regulations.
 - (B) Financial hardship shall not be deemed sufficient reason to constitute approval of a Subdivision Variance.
- ii. Responsibility of Proof.
 - (A) The applicant for a Subdivision Variance shall be responsible for demonstrating the burden that strict compliance with these regulations imposes on the subject property.
 - (B) The County reserves the right to require additional information for the consideration of a Subdivision Variance, in addition to the development application criteria required in accordance with Section 2.05.A above.
 - (C) If the County finds that any information provided by the applicant for consideration of a Subdivision Variance is falsified or otherwise incorrect, the Subdivision Variance application shall be disapproved in accordance with Section 2.05.C above.
- d. Effects of Approval.
 - i. The approval of a Subdivision Variance shall remain in effect for the period, including any authorized extensions, that the primary application is in effect, and shall expire upon expiration of the primary application.
 - ii. Action on a Subdivision Variance request shall be considered final.
 - iii. Approval of a Subdivision Variance shall not guarantee future approvals of similar applications, regardless of whether made for the subject property or surrounding properties.
 - (A) Subdivision Variances shall be independently considered on a case-by-case basis.
 - (B) The County reserves the right to require additional consideration of an approved Subdivision Variance if the details or information that informed the determination are later found to be inaccurate or otherwise significantly changed in accordance with Section 3.02.A.5 above.

2. Subdivision Proportionality Appeal.

a. Purpose and Applicability.

- i. Per *TLGC Section 232.110*, an applicant may appeal a subdivision proportionality determination made in accordance with Section 4.02.B below.
- ii. Applications for a Subdivision Proportionality Appeal may accompany any application made in accordance with the development sequences established in Section 3.02.B above.
 - (A) The review and action of a Subdivision Proportionality Appeal shall be made at the same time as the consideration of the primary application in accordance with Section 2.05 above.
 - (B) Review and action of a primary application may be contingent on the Commissioners Court consideration of the Subdivision Proportionality Appeal.
 - (C) If made in conjunction with a primary application in which the Commissioners Court is not the decision-making authority in accordance with Section 2.01 above, consideration of the primary application shall be deferred to the Commissioners Court for action.

b. Approval Criteria.

i. Consideration of Subdivision Proportionality Appeals.

A Subdivision Proportionality Appeal shall not be granted unless the decision-making authority established in accordance with Section 2.01 above finds, at its discretion, that the subdivision proportionality determination made in accordance with Section 4.02.B below creates a disproportionate burden on the property owner.

ii. Responsibility of Proof.

- (A) The applicant for a Subdivision Proportionality Appeal shall be responsible for demonstrating the disproportionate burden that strict compliance with Section 4.02.B below imposes on the subject property.
- (B) Minimum Documentation Required.
 - (1) The applicant for a Subdivision Proportionality Appeal shall provide, at a minimum, studies or documents that demonstrate:
 - (a) The total capacity of the County's relevant infrastructure system to be utilized by the proposed development or subdivision, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development.

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- (b) The total capacity to be supplied to the County's relevant infrastructure system by the proposed dedication of an interest in land or construction of public facilities associated with the development.
 - (c) If the proposed development is to be developed in phases, such information shall also be provided for the entire development proposed, including any phases that have already been developed.
 - (2) The County reserves the right to require additional information for the consideration of a Subdivision Proportionality Appeal, in addition to the development application criteria required in accordance with Section 2.05.A above.
 - (C) If the County finds that any information provided by the applicant for consideration of a Subdivision Proportionality Appeal is falsified or otherwise incorrect, the Subdivision Proportionality Appeal application shall be disapproved in accordance with Section 2.05.C above.
- iii. Appeal of County Determination.
- (A) An applicant may appeal the County's determination of a Subdivision Proportionality Appeal to a county or district court of the County in which the subject property is located within thirty (30) business days of the final determination by the County.
 - (B) The County shall not require an applicant to waive the right of appeal authorized by this Section 3.04.C.2.b.iii as a condition of approval for a development project.
 - (C) This Section 3.04.C.2.b.iii does not diminish the authority or modify the procedures specified by *TLGC Chapter 395*.
 - (D) This Section 3.04.C.2.b.iii does not increase or expand, and shall not be interpreted to increase or expand, the authority of the County to regulate plats or subdivisions under these regulations.

c. Effects of Approval.

- i. The approval of a Subdivision Proportionality Appeal shall remain in effect for the period, including any authorized extensions, that the primary application is in effect, and shall expire upon expiration of the primary application.
- ii. Approval of a Subdivision Proportionality Appeal shall not guarantee future approvals of similar applications, regardless of whether made for the subject property or surrounding properties.
 - (A) Subdivision Proportionality Appeals shall be independently considered on a case-by-case basis.
 - (B) The County reserves the right to require additional consideration of an approved Subdivision Proportionality Appeal if the details or information that informed the determination are later found to be inaccurate or otherwise significantly changed in accordance with Section 3.02.A.5 above.

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Section 4. Subdivision Design Standards.

4.01. Subdivision Categories and Specific Requirements.

A. Urban and Rural Subdivision Classifications Established.

1. A subdivision established in accordance with Section 3.04 above shall be classified as an Urban Subdivision if any lot included or established within the subdivision boundaries is less than one (1) acre in area.
 - a. Where an Urban Subdivision is located wholly or partially within the extraterritorial jurisdiction of a municipality, the applicable governmental entity responsible for regulation and approval shall be determined in accordance with Section 3.02.D above and applicable State law and interlocal agreements.
 - b. Improvements associated with an Urban Subdivision shall be constructed in accordance with the applicable standards established by these regulations, the Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines, and any other requirements lawfully applicable to the subdivision.
2. A subdivision established in accordance with Section 3.04 above shall be classified as a Rural Subdivision if all lots included or established within the subdivision boundaries are one (1) acre in area or greater.
 - a. Lots established within Rural Subdivisions requiring wastewater service shall be served by On-Site Sewage Facilities in accordance with Section 4.04.D below.
 - b. Improvements associated with a Rural Subdivision shall be constructed in accordance with these regulations and shall be eligible for County acceptance and maintenance only to the extent provided by these regulations and following formal acceptance by the Commissioners Court.
3. The name of a proposed subdivision shall not be the same or similar to any other Subdivision in the County, as determined by the County Engineer, and shall identify the subdivision as either “an urban subdivision” or “a rural subdivision” in the title block.

B. Technical Standards Established for Urban and Rural Subdivisions.

1. Technical Standards for Urban Subdivisions.

All infrastructure and improvements established within an Urban Subdivision (see Section 4.01.A.1 above) shall be designed and constructed in accordance with the Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines, and all other applicable local, state, and federal requirements.

- a. Unless otherwise specified, where there is a conflict of standards between the Brazos County Engineering Design Guidelines and other referenced technical standards, the more stringent standard shall apply, as determined by the County Engineer.

Section 4. Subdivision Design Standards.

4.02. Adequate Public Facilities and Infrastructure.

- b. Where an Urban Subdivision is located within the extraterritorial jurisdiction of a municipality, the applicable technical standards shall be determined in accordance with Section 3.02.D above, the applicable interlocal agreement, and applicable State law.

2. Technical Standards for Rural Subdivisions.

All infrastructure and improvements established within a Rural Subdivision (see Section 4.01.A.2 above) shall be designed and constructed in accordance with the Brazos County Engineering Design Guidelines and all other applicable local, state, and federal requirements.

- a. Where there is a conflict of standards, the more stringent standard shall apply, as determined by the County Engineer.
- b. Where a Rural Subdivision is located within the extraterritorial jurisdiction of a municipality, the applicable technical standards shall be determined in accordance with Section 3.02.D above, the applicable interlocal agreement, and applicable State law.

4.02. Adequate Public Facilities and Infrastructure.

A. Minimum Public Facilities and Infrastructure Required.

1. Land proposed for development or subdivision in the County shall be served adequately by the public facilities and infrastructure identified by these regulations, including water, wastewater, drainage, and roadway facilities and infrastructure.
2. Determining Adequacy of Public Facilities and Infrastructure.

In determining the adequacy of public facilities and infrastructure in accordance with these regulations, the County shall consider:

- a. Compliance with the standards of this Section 4.02; and
- b. Compliance with the County's applicable orders and standards related to the design and installation of public facilities and infrastructure, including those referenced in Section 1.06.D above.

3. Compliance Required for All Public Facilities.

Unless otherwise stated, all required public facilities shall be constructed to the minimum standards established by these regulations, regardless of whether the facilities have been or are intended to be approved and accepted by the County for ownership and maintenance in accordance with Section 3.03.C.3 above or will remain private.

B. Apportionment of County Infrastructure Costs.

1. Rough Proportionality Required.

- a. Per *TLGC Section 232.110*, the County hereby requires, including under an agreement established by *TLGC Chapter 242*, that a developer bear a portion of the costs of County infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs as a condition of approval for a development project in accordance with Section 2.05.C above.
- b. A developer's portion of infrastructure costs required under this Section 4.02.B may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development, as approved by a professional engineer who holds a license issued under *Occupations Code Chapter 1001* and is retained by the County.
- c. The County's determination of a developer's portion of infrastructure costs shall be completed within thirty (30) days following the submission of the developer's application for determination under this Section 4.02.B.

2. Appeal of Infrastructure Cost Determination.

A developer who disputes the determination of County infrastructure costs made under this Section 4.02.B may apply for a Subdivision Proportionality Appeal in accordance with Section 3.04.C.2 above.

4.03. Privately Owned and Maintained Facilities.

A. General Requirements for Privately Owned and Maintained Facilities.

1. Development projects having privately owned and maintained facilities shall be established in accordance with these regulations, as well as the relevant provisions of the Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines.
2. All privately owned and maintained roadway and drainage facilities shall be designed and constructed in accordance with the County's minimum standards for County-accepted and maintained public roadway and drainage facilities.
3. Privately Owned and Maintained Roadway Facilities.
 - a. The use of access-restricted gates on collector roadways and higher classifications shall be prohibited.
 - b. If ungated, private ownership and maintenance may extend to collector roads and higher classifications following the determination of the County Engineer, at their discretion, that the designated ownership and maintenance entity has sufficient power, authority, and fiscal means to maintain the roadway.
 - c. A private subdivision shall not cross or interfere with an existing or future collector road or higher classification.
4. Subdivisions proposing privately owned and maintained facilities shall include maintenance covenants with the initial plat application.

Section 4. Subdivision Design Standards.
4.03. Privately Owned and Maintained Facilities.

B. Minimum Standards for Privately Owned and Maintained Facilities.

1. If an owner wishes to utilize privately owned and maintained public facilities or gate any portion of the development project, the development shall be deemed a private subdivision and shall meet the following criteria:
 - a. Ownership and maintenance responsibility shall be dedicated to a homeowners' association, property owners' association, or other similar entity, as approved by the Brazos County Commissioners Court; and
 - b. The subdivision shall conform to any other special guidelines for privately maintained public facilities, as may be approved separately by the County Engineer.
2. Subdivision Requirements for Privately Owned and Maintained Public Facilities.
 - a. A subdivision application made in accordance with Section 3.04 above that includes privately maintained public facilities shall include or demonstrate the following notes and disclaimers:
 - i. A note that states: "It is understood that on approval of this plat by the Commissioner's Court of Brazos County, Texas, the building of all Streets, Roads and other public thoroughfares delineated and shown on this plat as privately maintained, and all bridges and culverts necessary to be constructed or placed in such Streets, Roads other public thoroughfares, or in connection therewith, shall remain the responsibility of the Owner, Homeowners Association/Property Owners Association, or other maintenance entity and/or Applicant of the tract of land covered by this plat, in accordance with plans and specifications prescribed by the Commissioner's Court of Brazos County, Texas. The Commissioner's Court assumes no obligation to build the streets, roads and other public thoroughfares shown on this plat, or to construct any bridges or culverts in connection therewith."
 - ii. A note that states: "All roadway facilities shall be maintained to a standard that will allow emergency vehicles access for the roadway design speed in perpetuity by the owner and all future owners of property within the subdivision."
 - iii. A note that states: "Certain County services may not be provided for lots accessed by privately maintained roadway facilities, including routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports."

- iv. A note that states: “The homeowners’ association, property owners’ association, or other similar entity, as the owner of the privately maintained public facilities, agrees to release, indemnify, defend, and hold harmless the County, any other governmental entity, and any public utility entity for damages to privately maintained public facilities that may be occasioned by the reasonable use of the facilities by same, or for damages and injury, including death, arising from the condition of the privately maintained facilities, use of access gates or cross-arms, or use of the subdivision by the County or any other governmental or utility entity.”
- v. A note that states: “Every deed shall contain a notice to the grantee that all designated roadways are privately maintained, that the property owners shall be perpetually liable for maintenance, and that the quality of the roadways shall be maintained so as not to affect access by public service agencies such as police, fire, and emergency medical services.”
- b. General Requirements for Documentation or By-Laws.
 - i. The owning homeowners’ association, property owners’ association, or other similar entity documentation or by-laws, as applicable, shall reference these regulations and shall contain provisions that describe how the entity may make an application to the County to accept privately maintained public facilities.
 - ii. The owning homeowners’ association, property owners’ association, or other similar entity documentation or by-laws, as applicable, shall provide for the County’s right to assess the property owners for the cost of remediation of improvements, whether a voluntary or involuntary conversion is pursued under these regulations.
 - iii. Where ownership or maintenance is governed by a municipal utility district, interlocal agreement, development agreement, or other recorded maintenance instrument, the plat shall reference the applicable agreement or instrument rather than imply County ownership or maintenance.
- c. General Requirements for Private Roadway Facilities.
 - i. The County may deny the creation of any privately owned and maintained roadway if, at the discretion of the County Engineer, it is determined that the privately owned and maintained roadway would:
 - (A) Negatively affect traffic circulation on surrounding County roadways;
 - (B) Impair or deny adequate access to the subject or adjacent property; or
 - (C) Impair access to surrounding public facilities or institutional uses, including schools and parks.
 - ii. The County shall not be responsible for any portion of the cost of constructing or maintaining a privately owned and maintained roadway.

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- iii. A sign shall be placed at the entrance of the subdivision stating that the roadways within the subdivision are privately owned and maintained roadways.
- iv. Gated subdivisions shall be designed with either a crash gate, Knox lock, or other means of access approved by the County Fire Marshal, and shall provide a letter of approval from all relevant emergency response agencies stating their approval of full-time access to the subdivision.
- v. Proposed privately owned and maintained roadways shall have access to a County-owned and maintained roadway facility.

3. Conversion of Private Roadways to County Maintenance.

a. General Requirements.

An owner, homeowners' association, property owners' association, or other legally responsible maintenance entity for a privately owned and maintained roadway may petition the County to consider acceptance of the roadway for County ownership and maintenance.

- i. The applicant shall submit a written petition to the County requesting conversion of the privately owned and maintained roadway to County ownership and maintenance.
- ii. The petition shall identify:
 - (A) The roadway or roadways proposed for conversion;
 - (B) The current owner of the roadway and right-of-way;
 - (C) The entity currently responsible for maintenance of the roadway;
 - (D) The legal description and recorded instrument establishing ownership of the roadway and right-of-way; and
 - (E) The reasons for requesting County ownership and maintenance.
- iii. The petition shall include, at a minimum:
 - (A) Documentation demonstrating the applicant's legal authority to petition for conversion of the roadway;
 - (B) A copy of the recorded plat and any recorded easements, covenants, maintenance agreements, or other instruments establishing ownership, access, or maintenance responsibility for the roadway;
 - (C) As-built drawings of the roadway and associated improvements, including drainage facilities, signs, pavement markings, and other improvements located within the roadway right-of-way;
 - (D) A certification by a professional engineer licensed to practice in the State of Texas that the as-built drawings accurately represent the existing roadway facilities and improvements;

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- (E) A written certification by the engineer of record or another professional engineer licensed to practice in the State of Texas that the roadway and associated improvements have been constructed and are maintained in accordance with the County's applicable roadway standards, or a written identification of each deficiency requiring correction before the roadway may be considered for County maintenance;
- (F) Available construction material testing, inspection, maintenance, and repair records for the roadway; and
- (G) Any additional documentation reasonably required by the County Engineer to determine whether the roadway may be considered for County ownership and maintenance.

b. Inspection and Determination of Compliance.

- i. The County Engineer shall inspect the roadway and associated improvements following receipt of a complete petition and required documentation.
- ii. The County Engineer may require additional inspection, testing, or documentation necessary to determine whether the roadway complies with applicable County standards.
- iii. The County Engineer shall identify any deficiencies that must be corrected before the roadway may be considered for County ownership and maintenance.
- iv. The applicant shall be responsible for correcting all deficiencies identified by the County Engineer at the applicant's expense.
- v. Any roadway improvement or reconstruction required as a condition of consideration for County ownership and maintenance shall be designed and constructed in accordance with the applicable County standards in effect at the time the improvement is required, unless otherwise approved by the Commissioners Court.

c. Maintenance Period and Surety.

- i. Prior to consideration of final acceptance by the Commissioners Court, the roadway shall be maintained by the applicant or other legally responsible maintenance entity in accordance with the requirements of these regulations.
- ii. The County Engineer may require the applicant to complete a maintenance period following correction of deficiencies and completion of any required improvements before the roadway is presented to the Commissioners Court for consideration of acceptance.
- iii. The County Engineer may require a maintenance bond, letter of credit, or other fiscal surety acceptable to the County to secure the required maintenance period and completion of any required corrective work.

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- iv. The amount and duration of any maintenance surety required under this Section shall be established in accordance with the applicable requirements of Section 3.02.C above.
- d. Action by Commissioners Court.
 - i. Following completion of the requirements of this Section, the County Engineer shall provide a written recommendation to the Commissioners Court regarding the proposed conversion.
 - ii. The Commissioners Court may accept the roadway for County ownership and maintenance by formal action if the Commissioners Court determines that the roadway and associated improvements satisfy applicable County requirements.
 - iii. The Commissioners Court may deny the request for conversion if the roadway or associated improvements do not satisfy applicable County requirements or if the Commissioners Court determines that County ownership and maintenance is not appropriate.
 - iv. County acceptance shall not occur until the Commissioners Court has taken formal action accepting the roadway for County ownership and maintenance.

4.04. Water and Wastewater Facilities and Infrastructure.

A. Minimum Water and Wastewater Services Required.

All developments or subdivisions shall provide adequate water and wastewater distribution systems connected to either a public water or wastewater supply corporation, or a privately owned or maintained water or wastewater system, including an OSSF, in accordance with these regulations and all applicable County regulations.

1. In the absence of specific standards, all water supply facilities shall be designed in accordance with the most current criteria adopted in *Title 30 Texas Administrative Code (30 TAC), Chapter 290*.
2. The County shall disapprove a development or subdivision application in accordance with Section 2.05.C above if an applicant fails to demonstrate that the subject property has adequate water or wastewater services, as defined by this Section 4.04.
3. Water and wastewater distribution systems that are not regulated under the County's jurisdiction shall be reviewed and approved by TCEQ in accordance with applicable State law.

B. Fire Suppression Systems.

Per *TLGC Section 232.109*, in a subdivision that is not served by fire hydrants as part of a centralized water system certified by the Texas Commission on Environmental Quality as meeting minimum standards for water utility service, the Commissioners Court may require a limited fire suppression system that requires a developer to construct:

1. For a subdivision of fewer than 50 houses, 2,500 gallons of storage; or
2. For a subdivision of 50 or more houses, 2,500 gallons of storage with a centralized water system or 5,000 gallons of storage.

C. Water Supply.

1. Water service to individual lots shall be in accordance with Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines, or water supplier regulations, whichever is more stringent.
2. An Urban Subdivision (see Section 4.01.A.1 above) shall have access to a public water system for domestic water supply and fire hydrant protection in accordance with the Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines.
3. A Rural Subdivision (see Section 4.01.A.2 above) shall have access to either a public water system or an adequate groundwater supply in accordance with *TLGC Section 232.0032*.
 - a. An application for the development or subdivision of a tract of land for which the source of the water supply intended for the development or subdivision is groundwater under that land shall have attached to the application a statement that:
 - i. Is prepared by an engineer licensed to practice in this State, or a geoscientist licensed to practice in this State; and
 - ii. Certifies that adequate groundwater is available for the development or subdivision.
 - b. The Texas Commission on Environmental Quality, by rule, shall establish the appropriate form and content of a certification to be attached to an application in accordance with this Section 4.04.C.3.
 - c. The Texas Commission on Environmental Quality, in consultation with the Texas Water Development Board, by rule, shall require an applicant who submits an application in accordance with this Section 4.04.C.3 to transmit to the Texas Water Development Board, and any groundwater conservation district that includes in the district's boundaries any part of the application, information that would be useful in:
 - i. Performing groundwater conservation district activities;
 - ii. Conducting regional water planning;

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- iii. Maintaining the State's groundwater database; or
- iv. Conducting studies for the State related to groundwater.

d. Exemptions to Groundwater Certification.

- i. The Commissioners Court may waive the certification requirements established in accordance with this Section 4.04.C.3 if:
 - (A) Based on credible evidence of groundwater availability in the vicinity of the proposed development or subdivision, the Commissioners Court determines that sufficient groundwater is available and will continue to be available to the subdivided tract of land; and
 - (B) The proposed development or subdivision divides the tract into no more than ten (10) parts.
- ii. An applicant subject to a waiver established in accordance with Section 4.04.C.3.d.i above shall comply with the requirements established in accordance with this Section 4.04.C.3 if:
 - (A) The tract of land is subsequently developed or divided in a manner that results in the original tract being developed or subdivided into more than ten (10) parts; or
 - (B) The Commissioners Court determines that the proposed development or subdivision is part of a series of proposed developments or subdivisions from an original tract that collectively include more than ten (10) parts.

D. Wastewater Supply.

1. An Urban Subdivision (see Section 4.01.A.1 above) shall not be permitted to have an OSSF system, and shall connect to an approved public sanitary sewer system designed in accordance with the Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines.
2. A Rural Subdivision (see Section 4.01.A.2 above) may utilize OSSF systems in accordance with the County's OSSF Court Order, as amended.
 - a. All lots shall meet the minimum lot size for the type of sanitary sewer service being used.
 - b. For determining the area required for an OSSF, the minimum lot size shall be in accordance with the current regulations of the Brazos County Health District or with the requirements of any other agency responsible for issuing permits for on-site sewage disposal, as may be designated by the Commissioners Court.

4.05. Private Utility Installation Requirements.

A. General Private Utility Requirements.

1. Private utilities shall not be placed within roadway rights-of-way, regardless of whether privately or publicly accepted and maintained, and shall be placed in a general utility easement abutting the right-of-way in accordance with this Section 4.05.A.
 - a. All utility Easements shall be situated completely within the Subdivision boundaries and not within the right-of-way.
 - b. The owner shall coordinate utility installations with all utility companies prior to submission of a subdivision application in accordance with Section 3.04.B.1 above.
 - c. Where the roadway right-of-way exceeds a regular width of one hundred (100) feet, the Commissioners Court may permit utilities to be located within the right-of-way on a case-by-case basis.
 - d. When abutting a roadway that is planned for future widening based on the applicable Thoroughfare Plan designation established in Section 4.07.C below, utilities shall be placed along the ultimate right-of-way limitation in accordance with this Section 4.05.A.1.
2. All existing utilities and pipelines that require relocation or adjustment to avoid conflict with proposed roadways or roadway expansions, utilities, or other improvements shall be relocated in compliance with Section 4.05.A.1 above, unless otherwise authorized by the Commissioners Court.
3. The owner shall bear the responsibility for compliance with federal, state, and local regulations and requirements regarding utility and pipeline locations and relocations.
4. Utilities Under Roadway Facilities.
 - a. In general, the entire width of all roadway rights-of-way shall be free of any utility or other obstruction, unless otherwise approved by the Commissioners Court.
 - b. Where approved, utility lines to be located under roadway pavement shall be encased (or sleeved) and backfilled per the Brazos County Engineering Design Guidelines.

B. Specific Private Utility Requirements for Urban Subdivisions.

1. Easements Along Roadways.
 - a. Within Urban Subdivisions (see Section 4.01.A.1 above), a continuous ten (10) foot wide public utility easement shall be provided on each side of all existing and proposed roadways.
 - b. Where conditions make this easement impractical, a continuous easement not less than fifteen (15) feet in width may be approved by the Commissioners Court on only one (1) side of the roadway facility.

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4.06. Lot Type and Design Standards.

2. A continuous ten (10) foot wide public utility easement shall be provided along the rear of all lots, and may be shared across property lines where the rear of lots abut one another.
- C. Specific Private Utility Requirements for Rural Subdivisions.
1. Easements Along Roadways.
 - a. Within Rural Subdivisions (see Section 4.01.A.2 above) a continuous sixteen (16) foot wide public utility easement shall be provided on each side of all existing and proposed roadways.
 - b. Where conditions make this easement impractical, a continuous easement not less than twenty (20) feet in width may be approved by the Commissioners Court on only one (1) side of the roadway facility.
 2. A continuous ten (10) foot wide public utility easement shall be provided along the rear of all lots, and may be shared across property lines where the rear of lots abut one another.

4.06. Lot Type and Design Standards.

A. Lot and Block Corners and Monumentation.

All corners and changes in bearing in right-of-way, lot, and block lines shall be marked according to the “Minimum Standards of Practice” approved by the Texas Board of Professional Land Surveying, as amended.

B. Lot Access and Minimum Lot Frontage.

1. Per *TLGC Section 232.103*, for the purposes of this Section 4.06.A, “existing County roadway facility” shall include any roadway improvement or right-of-way in existence within the County before the initial application has been filed by an applicant in accordance with Section 2.05.B above, regardless of whether the County is the owner or responsible for maintenance of said roadway facility.
2. Lots established through subdivision in accordance with these regulations shall have a minimum of one hundred (100) feet of frontage along an existing County roadway facility.
3. Lots established through subdivision in accordance with these regulations shall not front upon proposed or existing minor arterial roads or those with a higher classification, including in a temporary configuration, as depicted on the County’s Master Thoroughfare Plan, unless the sole means of access that can be provided to the lots is via an existing minor arterial road or a roadway of higher functional classification.
4. Lots established through subdivision in accordance with these regulations shall be provided paved access to an existing County roadway facility via a dedicated roadway, regardless of whether privately or publicly owned or maintained, designed in accordance with these regulations.

5. Consideration for Access Via Mutual Access Easement.

- a. The Commissioners Court may consider approving a subdivision that establishes lots accessed by mutual access easements, rather than an existing County roadway facility or roadway dedicated as part of the application.
 - b. In consideration of access via mutual access easement in accordance with this Section 4.06.B.5, the Commissioners Court shall consider:
 - i. If granting access to a lot via a mutual access easement will prohibit or otherwise limit future access to surrounding properties;
 - ii. The centered alignment of mutual access easements along affected property lines, as determined feasible by the Commissioners Court; and
 - iii. The appropriateness of a mutual access easement, rather than an existing County roadway facility or dedicated roadway facility, given the amount and kind of travel anticipated for the mutual access easement.
 - c. The connection of future lots to a mutual access easement approved in accordance with this Section 4.06.B.5 shall require additional consideration by the Commissioners Court.
6. Nothing in this 4.06.B limits an applicant's ability to request a Subdivision Variance under Section 3.04.C.1 above.

C. Lot Setbacks.

1. Per *TLGC Section 232.104*, lots established through subdivision in accordance with these regulations shall be subject to the following setback lines along all roadway facilities within the County, including major highways and roads depicted on the County's Master Thoroughfare Plan:
 - a. Twenty-five (25) feet from the edge of the right-of-way on all roadway facilities other than major highways and roads; or
 - b. Fifty (50) feet from the edge of the right-of-way of major highways and roads.
2. Setbacks established by this Section 4.06.C shall apply regardless of whether a roadway is publicly or privately owned and maintained.
3. No new buildings shall be permitted within the setback lines established by this Section 4.06.C.

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D. Lot Lines and Configuration Requirements and Restrictions.

1. Side Lot Lines.

- a. Side lot lines shall be established at a ninety (90) degree angle to the abutting roadway facility or other authorized means of access.
- b. Where local topography, curved property lines, cul-de-sac geometry, existing recorded prohibitive easements, drainage features, or irregular parent tract boundaries reasonably prevent a ninety (90) degree angle, as determined by the County Engineer, an angled side lot line configuration may be permitted.

2. Flag Lots.

- a. Flag lots shall only be permitted within Rural Subdivisions (see Section 4.01.A.2 above), and shall front on an existing County roadway facility.
- b. Flag lots shall be designed so that no portion of the lot is less than one hundred (100) feet in width.

3. Corner or Double Frontage Lots.

All corner or double frontage lots shall front on the lesser of the two roadway classifications.

4.07. Road Standards and Construction.

A. Minimum Roadway and Right-of-Way Facilities Required.

1. Prior to developing or subdividing a tract of land, the developer shall demonstrate provision of adequate roadway improvements and right-of-way dedication or reservation in accordance with this Section 4.07.
2. Additional roadway improvements or right-of-way dedication or reservation may be required along existing roadways and intersections to accommodate the minimum public facilities required by this Section 4.
3. Any dedications or reservations required in accordance with this Section 4.07 shall include the required turning lanes or other improvements determined necessary by the engineering documentation and supporting studies required as part of the development process.
4. When a proposed development or subdivision is located within the ETJ of a municipality, the developer shall either:
 - a. Dedicate or reserve right-of-way pursuant to the interlocal agreement in effect at the time of the initial application; or
 - b. If no interlocal agreement is in effect at the time of the initial application, or if the interlocal agreement does not otherwise determine the applicable regulation, the developer shall comply with the County's Major Thoroughfare Plan.

B. Permitted Roadway Types and Design Requirements.

1. All roadways established in accordance with these regulations shall be classified as one (1) of the following types of roadways and are subject to the corresponding design standards listed below.
 - a. Type A (Rural, Publicly Owned and Maintained Roadway).
 - i. Type A roadways shall be designed and constructed for eligibility for County ownership and maintenance and shall be dedicated to the County in accordance with these regulations.
 - ii. County ownership and maintenance shall not commence unless and until the Commissioners Court formally accepts the roadway in accordance with Section 3.03.D.2 above.
 - iii. Type A roadways shall only be established within Rural Subdivisions (see Section 4.01.A.2 above).
 - b. Type B (Urban, Publicly Owned and Maintained Roadway).
 - i. Type B roadways shall be located within a municipality's ETJ, shall be dedicated to the municipality for ownership and maintenance, and shall be designed and constructed in accordance with the municipality's engineering design standards.
 - ii. Type B roadways shall only be established within Urban Subdivisions (see Section 4.01.A.1 above).
 - c. Type C (Urban, Privately Owned and Maintained Roadway).
 - i. Type C roadways shall be dedicated to a homeowners' association, property owners' association, or other similar entity, and shall be designed and constructed in accordance with the Bryan/College Station Unified Design Guidelines, including any localized amendments adopted by the County as part of the Brazos County Engineering Design Guidelines, related to paved roadways.
 - ii. Type C roadways shall only be established within Urban Subdivisions (see Section 4.01.A.1 above).
 - d. Type D (Rural, Privately Owned and Maintained Roadway).
 - i. Type D roadways shall be dedicated to a homeowners' association, property owners' association, or other similar entity, and shall be designed and constructed in accordance with the Brazos County Engineering Design Guidelines related to paved roadways.
 - ii. Type D roadways shall only be established within Rural Subdivisions (see Section 4.01.A.2 above).

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- e. Type E (Rural, Privately Owned and Maintained Roadway).
 - i. Type E roadways shall be dedicated to a homeowners' association, property owners' association, or other similar entity, and shall be designed and constructed in accordance with the Brazos County Engineering Design Guidelines related to paved roadways.
 - ii. Type E roadways shall only be established within Rural Subdivisions (see Section 4.01.A.2 above).
 - iii. Type E roadways shall only be established to serve six (6) lots or less.

2. General Roadway Improvement Requirements.

- a. The installation of roadway improvements, regardless of whether installed within a privately or publicly maintained right-of-way, shall be made in accordance with the associated engineering standards identified in this Section 4.07.B and all other relevant provisions of these regulations.
- b. The County may accept the dedication of roadway improvements within rights-of-way on a case-by-case basis in accordance with Section 3.03.C.3 above.
- c. A developer may be obligated to construct, dedicate, or otherwise pay a fee in lieu of completing required roadway improvements identified by these regulations and any supporting documentation submitted for a development project or subdivision in accordance with 4.02.B above.
- d. The fee in lieu shall be equivalent to the estimated cost of the required roadway improvements, including material and labor costs, as identified in the approved construction plans or approved engineering study.

C. Compliance with Thoroughfare Plans Required.

The dedication or reservation of arterial and collector roadways and associated rights-of-way shall be in accordance with the current Bryan/College Station Metropolitan Planning Organization Thoroughfare Concept Plan or Thoroughfare Plan of an incorporated municipality within the County, as may be applicable.

- 1. Where roadway improvements and right-of-way dedications or reservations are not illustrated within the Plans identified in this Section 4.07.C, such improvements and dedications or reservations shall be arranged to provide continuity of existing roadway improvements and rights-of-way abutting or projecting into the subject property.
- 2. Where roadway improvements and right-of-way dedications or reservations are not illustrated within the Plans identified in this Section 4.07.C, such improvements and dedications or reservations shall be arranged in accordance with any approved engineering study or approval required by these regulations.

D. Right-of-Way Dedication and Reservation Requirements.

1. Dedication or Reservation of Right-of-Way Along Abutting Streets.

- a. When subdividing a property that abuts an existing right-of-way owned and maintained by the County that does not meet the minimum right-of-way width as determined by the applicable permitted roadway design and construction standards established in Section 4.07.B above, the subdivision shall dedicate right-of-way in the amount that totals half of the required width measured to the centerline of the abutting right-of-way.
 - i. The dedication of right-of-way shall be considered an extension of public facilities.
 - ii. The County shall accept the dedication of right-of-way that abuts an existing right-of-way owned and maintained by the County in accordance with Section 3.03.C.3 above.
- b. When subdividing a property that abuts an existing right-of-way that is not owned and maintained by the County, and that does not meet the minimum right-of-way width as determined by the applicable permitted roadway design and construction standards established in Section 4.07.B above, the subdivision shall dedicate right-of-way in the amount that totals half of the required width measured to the centerline of the abutting right-of-way.
 - i. The dedication of right-of-way shall be considered an extension of public facilities, regardless of whether the County accepts the dedication of the right-of-way in accordance with Section 3.03.C.3 above.
 - ii. The right-of-way shall be dedicated to the entity or property owner that owns or maintains the right-of-way.
 - iii. If the entity or property owner that owns or maintains the right-of-way refuses the dedication of property and maintenance responsibility, the developer shall:
 - (A) Provide proof of the refusal, in writing, to the County; and
 - (B) Illustrate the dedicated right-of-way as a reserved right-of-way area in accordance with Section 4.07.D.1.c below.

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- c. When developing a property that abuts an existing right-of-way that does not meet the minimum right-of-way width as determined by the applicable permitted roadway design and construction standards established in Section 4.07.B above, the development or subdivision shall reserve right-of-way area in the amount that totals half of the required width measured to the centerline of the abutting right-of-way.
 - i. The reservation of right-of-way area is intended to prevent substantial improvements, as determined by the County Engineer, within areas that the County or other agency may purchase, maintain, or otherwise acquire to fulfill the ultimate conditions illustrated in the applicable Thoroughfare Plan established by Section 4.07.C above in the future.
 - ii. For the purposes of this Section 4.07.D.1.c, “substantial improvements” shall include buildings, structures, and other public facilities, including drainage and utility infrastructure within private property, but shall exclude property fencing, landscaping, and required access infrastructure, including driveways and their associated improvements required by these regulations.
 - iii. An applicant may appeal the decision of the County Engineer made in accordance with Section 4.07.D.1.c.i above to the Commissioners Court.
 - iv. A reservation established under this Section 4.07.D.1.c does not obligate the County or another governmental entity to purchase or acquire the reserved area.
 - v. The reservation shall remain in effect until acquisition, release by the Commissioners Court, or expiration of the applicable reservation period established by the County.
 - vi. Lots intended solely for the reservation of right-of-way area are prohibited.
- 2. Dedication or Reservation of Right-of-Way Along Future Corridors.
 - a. If all or part of a subdivision is located within a future transportation corridor identified in an agreement under *Transportation Code Section 201.619*:
 - i. The County:
 - (A) May refuse to approve the subdivision unless the plat states that the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and
 - (B) May refuse to record the subdivision if all or part of the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and

- ii. Each purchase contract or lease between the developer and a purchaser or lessee of land in the subdivision must contain a conspicuous statement that the land is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor.
 - b. The County may not refuse to review a subdivision application or refuse to record a subdivision for failure to identify a corridor, as defined by *Transportation Code Section 201.619*, unless the corridor is part of an agreement between TxDOT and the County under *Transportation Code Section 201.619*.
 - 3. The developer's right-of-way dedication or reservation requirements shall not exceed the rough proportionality determination of Section 4.02.B.1 above.
- E. Roadway Alignment and Design Requirements.
- 1. General Roadway Requirements.
 - a. The County may require an internal roadway system that minimizes driveway connections to existing roadways in the County.
 - b. Newly established roadways shall connect or otherwise extend from an existing roadway owned and maintained by the County or other public agency.
 - c. Newly established roadways shall be named with prior approval from Brazos County 911 addressing coordination.
 - i. Roadways shall be named in a manner to avoid confusion in identification with previously approved roadway names.
 - ii. Roadways that are extensions of existing roadways shall continue the previously approved roadway name.
 - iii. Roadways that are not extensions of existing roadways, or stem from a ninety (90) degree bend in a roadway, shall have a unique name.
 - d. All roadways shall be marked in accordance with the Brazos County Engineering Design Guidelines and shown on the construction plans.
 - e. No squares, islands, or other obstructions to traffic shall be reserved within the roadway unless otherwise approved by the Commissioners Court.
 - i. When permitted, obstructions shall not detract from the minimum traffic lane width required by the applicable permitted roadway design and construction criteria established in Section 4.07.B above.
 - ii. The County reserves the right to deny ownership and maintenance of a roadway facility with obstructions established in accordance with this Section 4.07.E.1.e

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2. Roadway Intersections.

All roadway and right-of-way facilities shall intersect as close to ninety (90) degree angles as possible, as determined feasible by the County Engineer.

- a. Where an intersection as close to a ninety (90) degree is not deemed possible by the County Engineer, the intersection on the side of the acute angle must be rounded at a minimum fifty (50) foot radius.
- b. Abrupt offsets at intersecting roads, as determined by the County Engineer, and those intersecting at an angle less than seventy-five (75) degrees are prohibited.
- c. Consideration shall be given to the existing topography or other physical improvements that may warrant deviation from the alignment angles of roadway and right-of-way facilities, including offsets relative to other nearby intersections, visibility, speed limit, nature of uses, and activity levels as identified on an approved Traffic Impact Analysis.
- d. An applicant may appeal a determination of the County Engineer made in accordance with this Section 4.07.E.2 to the Commissioners Court.
- e. Intersections shall be provided along roadways at a maximum spacing of two thousand five hundred (2,500) feet between stop conditions, at ninety (90) degree turns, when providing direct access to residential lots unless all lots are greater than five (5) acres.

3. Driveways.

- a. Driveways shall be designed in accordance with the County's adopted regulations for the construction of driveways and culverts, as amended.
- b. Driveway entrances directly onto arterial roadways or higher classifications are prohibited, unless otherwise approved by the Commissioners Court.
- c. Driveway culverts for all lots shall be designed by an Engineer and shall be shown on a table on the establishing subdivision application.
 - i. The table shall include the lot number, culvert length, size, and invert elevations.
 - ii. Culvert information shall be placed in the deed restrictions, if any, for the lots in the Subdivision.
 - iii. Culverts shall be designed in accordance with the Brazos County Engineering Design Guidelines.

4. Alignment with Surrounding Roadway Improvements and Rights-of-Way.
- a. Newly established roadways shall extend or otherwise align with the alignment of roadway improvements, rights-of-way, or access points within surrounding properties, as determined feasible by the County Engineer.
 - i. Consideration shall be given to the existing topography or other physical improvements that may warrant deviation from the alignment of roadway improvements, rights-of-way, or access points within surrounding properties.
 - ii. An applicant may appeal a determination of the County Engineer made in accordance with this Section 4.07.E.4 to the Commissioners Court.
 - b. Permitted streets proposed within a subdivision shall be extended or stubbed out to the subject property boundary to provide future connection with adjoining properties.
 - i. Stub-out conditions required by this Section 4.07.E.4 shall be subject to the turnaround standards established in Section 4.07.E.6 below, as applicable.
 - ii. Where abutting properties are not platted, the stub-out conditions shall provide permitted roadway projections to said properties and any land-locked tracts that do not otherwise have frontage to a permitted roadway.
 - iii. When land is subdivided into larger parcels rather than lots intended for immediate development, such parcels shall be arranged to allow for the opening of future permitted roadways and logical further subdivisions within the subject property.
 - c. The reservation of strips of private land at the end of proposed roadway improvements or rights-of-way, including stub-outs required in accordance with Section 4.07.E.4.b above, shall be prohibited to verify efficient cross-connectivity and to:
 - i. Allow for the continuation of roadway improvements and rights-of-way to adjoining properties; and
 - ii. Prevent a property owner from landlocking an adjoining property by limiting access to roadway improvements and rights-of-way, regardless of whether privately or publicly owned or maintained.

Section 4. Subdivision Design Standards.
4.07. Road Standards and Construction.

5. Minimum Access Points and Design Criteria.

- a. Where a development or subdivision, or portion or phase thereof, establishes more than one hundred fifty (150) total dwelling units, or a combination of lots and dwelling units in excess of one hundred fifty (150), the development or subdivision shall have a secondary point of ingress and egress to an existing County-owned and maintained roadway via a permitted roadway designed and constructed in accordance with Section 4.07.B above.
 - i. Where a development or subdivision, or portion or phase thereof, establishes more than five hundred (500) total dwelling units, or a combination of lots and dwelling units in excess of five hundred (500), the development or subdivision shall have a total of three (3) points of ingress and egress to an existing County-owned and maintained roadway via a permitted roadway designed and constructed in accordance with Section 4.07.B above.
 - ii. A minimum of one (1) point of ingress and egress shall not be located over a potential hazard, such as a high-pressure gas line or a creek where the one hundred (100) year floodplain overtops the roadway, regardless of its classification.
 - iii. The Commissioners Court may permit the use of remote emergency access where the development or subdivision phasing or physical constraints of the land prevent the provision of an additional point of ingress and egress required by this Section 4.07.E.5.
- b. Where an existing or boundary roadway does not meet applicable County roadway standards, any improvement required under this subsection shall be limited to improvements reasonably related to the traffic and infrastructure impacts generated by the proposed development and shall be supported by the proportionality determination required by Section 4.02.B above.

6. Dead-End Roadways.

- a. General Dead-End Roadway Requirements.
 - i. Dead-end roadways may be established where the Commissioners Court and the County Engineer deem appropriate, and where the subject property adjoins non-subdivided property.
 - ii. Dead-end roadways, whether designed temporarily or permanently, shall meet the design and construction requirements of the applicable permitted roadway type as established in Section 4.07.B above.

b. Temporary Dead-End Roadway Conditions.

- i. Temporary dead-end roadway conditions shall be provided with a paved turnaround condition meeting the permanent dead-end conditions established by this Section 4.07.E.6.
 - (A) A temporary turnaround easement shall be dedicated to capture the full limitations of the temporary paved turnaround condition.
 - (B) Upon extension or completion of the temporary dead-end roadway or access easement condition, the portion of any temporary easement established in accordance with this Section 4.07.E.6.b may revert to the properties abutting said temporary easement.
 - (C) Driveway access to a temporary dead-end roadway condition shall be prohibited.
- ii. Stub-out conditions required in accordance with Section 4.07.E.4.b above shall be considered temporary dead-end conditions and shall be subject to the requirements of this Section 4.07.E.6.b with the following exceptions:
 - (A) Stub-out conditions less than one hundred fifty (150) feet in length shall not require a temporary turnaround easement; and
 - (B) Stub-out conditions one hundred fifty (150) feet in length or more shall either:
 - (1) Provide a temporary turnaround easement in accordance with this Section 4.07.E.6.b; or
 - (2) Restrict access to the stub-out condition via temporary bollards, gates, or other means deemed suitable by the County Engineer.

c. Permanent Dead-End Roadway Conditions.

- i. Roadways or rights-of-way designed to be permanent dead-end conditions shall terminate in a cul-de-sac condition.
- ii. The maximum length of a cul-de-sac condition shall be the lesser of two thousand five hundred (2,500) feet or the minimum distance needed to service a maximum of thirty (30) lots.
- iii. Cul-de-sac length shall be measured along the centerline of the cul-de-sac between the center point of the cul-de-sac diameter and the intersecting center point of the connecting roadway or right-of-way.

Section 4. Subdivision Design Standards.
4.07. Road Standards and Construction.

7. Traffic Control and Signage.

a. Traffic Control Signs Required.

Traffic control signs shall be designed by an engineer and installed by the owner of a development or subdivision in compliance with the Texas Manual on Uniform Traffic Control Devices (TxMUTCD) and at the locations as indicated on the approved construction plans.

- i. Other traffic control signs, as shown on the construction plans, shall be installed to indicate any unusual traffic or roadway hazard conditions that may exist.
- ii. All traffic control devices shall be placed in compliance with the TxMUTCD, and the construction cost shall be borne by the owner.
- iii. All traffic control devices and signage shall be installed before final inspection of all improvements by the County in accordance with Section 3.03.C above.

b. Speed Limits Established.

- i. A speed limit of thirty (30) miles per hour for local roads, thirty (30) miles per hour for Collector Roads, and forty (40) miles per hour for Arterial Roads within all new developments and subdivisions is required.
- ii. The limits established by this Section 4.07.E.7.b may be changed on a case-by-case basis by the Commissioners Court upon the basis of an engineering and traffic investigation showing that the prima facie maximum reasonable and prudent speed for a particular roadway, or part of a roadway, should be different.
- iii. The placement of a stop sign or a yield sign on a minor road at an intersection shall be evaluated on a case-by-case basis in accordance with the TxMUTCD.

c. Signage that differs from the standard signage that is maintained by the County shall be maintained by the owner.

- i. The signage shall be maintained in compliance with the relevant TxMUTCD requirements.
- ii. For all privately owned and maintained roads, the owner shall install at their own expense signage on each roadway clearly stating the roadway is privately owned and maintained.

F. Traffic Impact Studies and Analyses.

The purpose of this Section 4.07.F is to protect the general health, safety, and welfare of the public by properly reducing traffic congestion, improving traffic safety and flow, and ensuring that site-generated traffic can be adequately and safely served by the existing and future roadway system associated with a development or subdivision.

1. Trip Generation Threshold Analysis.

- a. A Trip Generation Threshold Analysis is required with the initial application for a development project for the following types of development:
 - i. Single-family residential developments or subdivisions of one hundred (100) lots or greater;
 - ii. Multi-unit residential developments or subdivisions; or
 - iii. Non-residential developments or subdivisions.
- b. Trip Generation Threshold Analyses shall be prepared by a Licensed Professional Engineer in the State of Texas, with experience in Transportation Engineering, to determine if the development project is expected to generate:
 - i. One thousand (1,000) or more vehicle trips per day;
 - ii. An additional one hundred (100) or more parking spaces to the site; or
 - iii. One hundred fifty (150) or more vehicle trips, either inbound or outbound, during the development project's peak traffic hour.
- c. Threshold analyses established by this Section 4.07.F apply to the ultimate buildout represented by all approved phases.
- d. All development projects shall utilize their proposed ultimate buildout condition when conducting Trip Generation Threshold Analyses, including any future parts or phases, to determine if they are intended to meet the thresholds identified in Section 4.07.F.1.b above.
- e. If a development project meets one (1) or more of the thresholds identified in Section 4.07.F.1.b above, a Traffic Impact Analysis shall be required in accordance with Section 4.07.F.2 below.

2. Traffic Impact Analyses.

- a. General Traffic Impact Analysis Requirements and Understanding.
 - i. A Traffic Impact Analysis is intended to form the basis for the design of any proposed access or roadway systems to verify coordination of the proposed development project with the transportation needs resulting therefrom.
 - ii. Traffic Impact Analyses shall be prepared by a Licensed Professional Engineer in the State of Texas, with experience in Transportation Engineering.

Section 4. Subdivision Design Standards.
4.07. Road Standards and Construction.

- iii. The Traffic Impact Analysis shall meet the requirements established in this Section 4.07.F and follow the methodology, thresholds, and principles described in the Institute of *Transportation Engineers (ITE) Multimodal Transportation Impact Analysis for Site Development* recommended practice.
- iv. Traffic Impact Analyses shall use current and anticipated near-term traffic volumes and roadway configurations for analysis.
 - (A) The analysis process shall verify that the roadway system is, or will be, adequate to accommodate the proposed development project and that safe and adequate access will be provided for travel between the development project and the surrounding roadway system.
 - (B) Where the analysis shows levels of service falling below acceptable minimums on roadway systems in the study area, the analysis will recommend appropriate mitigation measures and demonstrate their effectiveness.
 - (C) Combinations of mitigation measures and other techniques may be considered by the County Engineer, as appropriate.
 - (D) An analysis for a development project shall not recommend mitigation measures that are inconsistent with any traffic or roadway provisions of the applicable Thoroughfare Plan established in Section 4.07.C above.
- v. The County shall consider the findings of a Traffic Impact Analysis when acting on an application in accordance with Section 2.05.C above, including the determination of proportional impact on County infrastructure in accordance with Section 4.02.B above.

b. Traffic Impact Analysis Definitions.

For the purposes of this Section 4.07.F.2, the following terms shall be defined or implemented as specified by this Section 4.07.F.2.b:

- i. Trip Generation Rates.
 - (A) Trip Generation Rates shall be used to estimate the amount of vehicular traffic generated by the proposed development project.
 - (B) Traffic Impact Analyses shall land use rates set forth in the latest edition of the Trip Generation Report published by the ITE, as amended, unless the report does not adequately address the type or intensity of the proposed development project.

- (C) When the specific land use is unknown, the land use shall be based on the applicable County or regional Future Land Use Plan, including areas extending into an incorporated municipality's ETJ, with consideration of existing topography and comparable surrounding properties to approximate the maximum trip generation potential of the site. Land use assumptions shall be consistent with the latest edition of the *ITE Trip Generation Manual*.
 - (D) If available Future Land Use Plan data do not adequately address the type or intensity of the proposed development project, the owner shall submit projected vehicle trips to the County Engineer for consideration.
- ii. Design Year.
- (A) The design year is the point in time upon which assumptions pertaining to land use, population, employment, and transportation facilities are based.
 - (B) Traffic Impact Analyses shall use a design year based on the expected date of development project occupancy, and shall include consideration of nearby development that has been approved and will contribute traffic volume to the proposed development project study area.
- iii. Peak Periods.
- (A) Peak periods relate to times of day experiencing the greatest hourly traffic flow rates.
 - (B) Traffic Impact Analyses shall consider the morning and afternoon peak hours (or projected peak hours) of existing (or planned) roadways serving the proposed development project.
 - (C) Typical peak periods are between 7:00 and 9:00 a.m. and between 4:00 and 6:00 p.m.
- iv. Base Volumes.
- (A) Base volumes shall be based on current traffic counts adjusted to the expected date of development project occupancy plus the volumes generated by nearby future development, including all phases that have been approved by the County or relevant municipality.
 - (B) In all cases where traffic counts are needed and are not available, the owner shall be required to collect such data according to guidelines approved by the County Engineer.

Section 4. Subdivision Design Standards.
4.07. Road Standards and Construction.

v. Level of Service.

- (A) Level of service is a measure of the extent of congestion experienced on roadways.
- (B) Level of service shall be measured through an analysis of traffic operating conditions on roadway links and at intersections, using techniques presented in the latest edition of the Transportation Research Board's Highway Capacity Manual, as amended.

c. Traffic Impact Analysis Methodology.

i. Scope of Work Determination Meeting Required.

- (A) A scope of work determination meeting with the County Engineer is required to discuss whether a traffic impact analysis is required and, if so, the relevant aspects thereof.
- (B) The study area shall be defined to include nearby land developments, both existing and planned, the street network to be examined, and the minimum extent of analysis.
- (C) Details of the procedures, assumptions, data collection, and analysis methodology or methodologies shall be determined at the scope of work determination meeting.
- (D) Traffic from other nearby developments that have been approved but not yet constructed shall be accounted for in the traffic impact analysis, as determined appropriate by the County Engineer.
- (E) The County Engineer may require other specific assumptions, such as the percent of trucks, to match local conditions.

ii. Traffic Impact Analysis Content.

Submittals of traffic impact analyses shall include the following:

- (A) Study Area.
 - (1) A map delineating the traffic impact analysis study area, including land areas to be considered and all existing and planned roadways therein, including those roadways and intersections requiring specific analyses.
 - (2) The study area shall be determined by identifying the geographical area most affected by the proposed development project, as determined by the County Engineer.

- (3) The study area shall cover all intersections through which at least ten percent (10%) of the proposed development project's site traffic passes, and shall extend to and include at least the first traffic signal in all directions if within one (1) mile of any portion of the site.

- (4) Existing roadways and intersection capacities shall be shown.

(B) Existing Development.

A description of existing development within the study area, including land area, both gross and net, square footage, the density of hotel rooms, and dwelling units.

(C) Thoroughfare Network.

A description of existing thoroughfares, signals, signal phasing, and traffic volumes within the study area.

(D) Proposed Development Narrative.

- (1) A description of the proposed development project, including land area, both gross and net, square footage, the density of hotel rooms, and dwelling units.
- (2) A description of anticipated roadway conditions expected by the date of occupancy of the proposed development project.

(E) Proposed Access.

- (1) Identification of the proposed access driveways for the development project.
- (2) The location and number of lanes, proposed traffic controls, and relationship to on-site circulation features for each proposed point of access.
- (3) Any proposed modifications to adjacent roadways.
- (4) Once the traffic impact analysis and proposed access plan have been approved, the final location and design of all access points shall meet or exceed the current access management and roadway design policies of the entity responsible for the condition of that portion of the adjacent roadway.

Section 4. Subdivision Design Standards.
4.07. Road Standards and Construction.

(F) Impact Determination.

A determination of the level of service for all roadways and intersections in the study area shall be included, along with motor vehicle safety conditions along all roadways fronting the development project, containing the following minimum information:

(1) Proposed Trip Generation.

- (a) A calculation of the total trip generation by use within the study area, assuming full development and occupancy, including both peak hour and twenty-four (24) hour information.
- (b) Any reductions attributed.
- (c) trip generation by use in tabular form, with land use trip generation rates and trips generated.

(2) Trip Distribution and Assignment.

- (a) A calculation of trips generated by the proposed development project, as added to the base volumes projected for the design year.
- (b) Calculated peak hour volumes.
- (c) Distribution assumptions, baselines, and assignment calculations.

(3) Level of Service Analysis.

- (a) A depiction, shown in tabular form, of the twenty-four (24) hour and peak hour volume and capacity ratios for links and intersections within the study area.
- (b) This analysis shall be done for the existing traffic conditions and existing traffic conditions plus the projected traffic.
- (c) Capacity analyses shall be shown for all points of ingress and egress, median breaks, and turn lanes associated with the proposed development project.

(4) Neighborhood Traffic Analysis.

- (a) If the traffic impact analysis calculations show that a proposed development project increases traffic on a collector roadway or lower classification by at least ten percent (10%), a neighborhood traffic analysis shall be performed.
- (b) Neighborhood traffic analyses shall include an evaluation of existing and projected traffic on the affected roadways.

- (c) Mitigation to lower traffic on the affected roadways may be required by the County Engineer.
- (5) Conclusions.
 - (a) A summary of findings shall be reported.
 - (b) The summary of findings shall show all adjacent roadways and intersections, noting those that fail to provide a level of service of D or better, and the percent increase in total traffic produced by the proposed development project.
 - (c) The summary of findings shall demonstrate that the proposed access design will provide safe and adequate access to the development project.
 - (d) The summary of findings shall identify any safety and operational problems within the study area.
- iii. Mitigation Based on Analysis Findings.
 - (A) The mitigation measures required by this Section 4.07.F.2.c.iii shall be subject to the proportionality requirements established by Section 4.02.B above.
 - (B) Traffic impact analyses shall include a description of the mitigation measures proposed for meeting acceptable traffic service thresholds.
 - (C) Where the development project contributes five percent (5%) or more of the traffic at locations failing to meet a level of service of D or better, the total trips shall be mitigated by the owner to the lowest levels to achieve the required standard or to the pre-development levels, whichever is greater.
 - (D) Acceptable measures for mitigating negative traffic impacts include at least one (1) of the following:
 - (1) Modifying the density or intensity of the development project to result in traffic levels meeting the level of service D, or better;
 - (2) Phasing the approval and construction of the development project until additional roadway capacity becomes available;
 - (3) Improving the access plan by dealing with features such as overall site arrangement, the placement and design features of access points, provision of additional access points to roadways not immediately adjacent to the property, provision of alternate controls, or adjustments in the development project circulation system; or
 - (4) The making of off-site improvements, including the construction of additional lanes, increases in storage lane capacities, or the modification of signalization.

Section 4. Subdivision Design Standards.
4.07. Road Standards and Construction.

(E) Costs of Mitigation.

- (1) Mitigation improvements which are attributable to the proposed development shall be funded at the owner's expense.
- (2) Any other improvements shown that are consistent with the applicable Thoroughfare Plan established in Section 4.07.C above may request a contribution by the County in accordance with these regulations
- (3) The developer's share of mitigation improvements is limited to the project's proportionate contribution to the deficiency and does not require remedying pre-existing unrelated level of service failures, including level of service failures as the result of background traffic growth.

d. Criteria for Approval.

The County shall consider the following in determining whether a proposed development project meets an acceptable level of service, as identified by the traffic impact analysis:

i. Design Requirement.

The proposed development is consistent with the applicable Thoroughfare Plan established in Section 4.07.C above, and is consistent with the design requirements of TxDOT regarding roadways maintained by such agency.

ii. Level of Service D.

The minimum acceptable level of service for the County is service D, as defined in the Transportation Research Board's Highway Capacity Manual.

iii. Determination of Adequate Mitigation.

The County Engineer and the Commissioners Court shall, based on recommendations by a qualified traffic engineer, determine whether adequate mitigation has occurred to meet an acceptable level of service, utilizing the requirements set forth in this Section 4.07.F.2.

4.08. Drainage Standards.

A. General Drainage Improvement Standards.

1. Drainage improvements and post-development drainage conditions associated with a subdivision or development project shall be designed and constructed in accordance with the Brazos County Engineering Design Guidelines, and shall be submitted to the County Engineer for consideration as part of the construction plans associated with a development or subdivision application.
2. Drainage improvements shall not be accepted by the County for ownership and maintenance unless otherwise authorized by the Commissioners Court.
 - a. The owner and all subsequent owners shall be responsible for maintaining all drainage improvements, including any detention and water quality ponds and culverts and associated driveways, regardless of whether located within a County-owned and maintained roadway.
 - b. The County reserves the right to clear any blockages or make necessary repairs to drainage improvements located within a County-owned and maintained roadway.
 - c. The County may seek recovery of funds from abutting property owners when conducting repairs in accordance with this Section 4.08.A.2, as authorized by the Commissioners Court.
3. Stormwater Detention Requirements.
 - a. When developed in parts or phases, the ultimate detention area associated with a development project shall be dedicated independently if not located in the first platted part or phase.
 - b. Detention is to be designed by a registered professional engineer using the bases of 10-, 25-, and 100-year storm events.
 - c. Exceptions may be permitted by the County Engineer if the owner demonstrates that the post-development design condition downstream property shall experience no adverse impact as established in the Bryan/College Station Unified Stormwater Design Guidelines.
 - d. If the Subdivision is required to provide off-site stormwater detention, then surety will be required for the construction of the detention facility prior to beginning construction of the subdivision improvements in accordance with Section 3.02.C above.

Section 4. Subdivision Design Standards.

4.08. Drainage Standards.

B. Drainage and Flood Control Information and Standards Required.

1. Subdivision applications shall show all natural drainage features and water courses as they exist in pre-development condition.
 - a. Applications shall illustrate existing and proposed contours at intervals of two (2) feet for grades up to five percent (5%), and intervals of not more than five (5) feet for grades in excess of five percent (5%).
 - b. The 100-year floodplain elevation shall be clearly delineated on the plat face per current FEMA Flood Insurance Rate Maps.
 - i. Lots containing a portion of 100-year floodplain shall delineate the minimum finished floor elevation.
 - ii. No building shall be constructed on any lot where the finished slab level will be lower than two (2) feet above the 100-year floodplain elevation.
 - iii. Changes to a previously approved FEMA Flood Insurance Rate Map made during the duration of a development sequence for a development project may warrant additional consideration of previously approved applications, as deemed appropriate by the County Engineer.
2. Minimum Drainage Easement Requirements.
 - a. Drainage features and water courses designated on FEMA Flood Insurance Rate Map Panels shall be located within a common drainage area lot or drainage easement designated on the plat face.
 - i. Common drainage area lots shall be independent of any other lot established by the subdivision.
 - ii. The minimum width of a common drainage area lot or drainage easement shall be:
 - (A) The greater of the top of the bank plus twenty (20) feet on both sides or twenty (20) feet on both sides of the drainage course or floodway; or
 - (B) Designed to accommodate the hydraulics and maintenance needs of the drainage feature, as considered appropriate by the County Engineer.
 - b. All other drainage ways shall be located within a drainage easement wide enough to encompass the developed flows from a ten (10) year storm event, but not less than ten (10) feet in width.
 - i. Drainage easements may be located within a platted lot, but shall not count toward the minimum lot size for OSSF permitting purposes.
 - ii. When combined or placed parallel, drainage and utilities easements shall be a minimum of twenty (20) feet in total width.

C. Stormwater Discharge Permit.

1. Per TCEQ regulations, construction activities, including clearing, grading, and excavation, require permitting for stormwater discharge unless the operations result in the disturbance of less than one (1) acre total land area that is not part of a larger plan of development.
 - a. For construction activities disturbing five (5) acres of land or more, accounting for the larger plan of development, the owner shall complete and post a site notice in conformance with TCEQ.
 - i. The owner shall complete and submit a notice of intent for stormwater discharges associated with construction activity under the National Pollution Discharge Elimination System General Permit.
 - ii. The notice of intent shall be submitted to TCEQ by the owner at least seven (7) days prior to commencement of construction.
 - b. For construction activities disturbing at least one (1) acre to less than five (5) acres of land, accounting for the larger plan of development, the owner shall complete and post a site notice in conformance with TCEQ.
 - i. The owner shall complete and submit a low rainfall erosivity waiver form.
 - ii. If the site is not eligible for a low rainfall erosivity waiver, the owner shall submit a notice of intent for stormwater discharges associated with construction activity under the National Pollution Discharge Elimination System General Permit and comply with its requirements.
2. A storm water pollution prevention plan shall be developed and implemented in accordance with TCEQ requirements for all construction activities disturbing one (1) acre or more of land, accounting for the larger plan of development.
 - a. During construction activities, a copy of the storm water pollution prevention plan shall be posted on-site.
 - b. All construction activities shall maintain the erosion control measures as stated in the approved storm water pollution prevention plan throughout the entirety of construction activities.
 - c. TCEQ may be contacted if it appears that any activity is not in compliance with the storm water pollution prevention plan.

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Section 5. Definitions

5.01. Terms Beginning With "A" Through "E"

1. **Abutting**
Adjacent, adjoining, and contiguous to. It can also mean having a tract or lot line in common with a right-of-way or easement, or with a physical improvement such as a street, waterline, park, or open space.
2. **Address**
The identification of a location including an address number and road name.
3. **Amending Plat**
Refer to Section 3.04.B.4 above.
4. **Applicant**
A person, including an authorized individual or agency, seeking approval of an application submitted per these regulations.
5. **Application**
A package of materials, as specified within the County's Development Application Handbook, which is required by the County to initiate the review of a development.
6. **Business Day**
Any recognized day that the County offices are open for business, specifically excluding weekends and holidays recognized by the County.
7. **Cancellation Plat**
Refer to Section 3.04.B.5 above.
8. **Commercial**
Any tract or structure primarily intended to be used for engaging in commerce.
9. **Commissioners Court**
The Commissioners Court of Brazos County, Texas.
10. **Common Element**
An area, improvement, or other element associated with a development that is intended for use by more than one occupant of a property or subdivision.
11. **Corner Lot**
See Lot, Corner.
12. **County**
Brazos County, Texas; when used as an approval authority, the Commissioners Court or their designee.
13. **County Clerk**
The person designated to provide clerical and official services for the County.

Section 5. Definitions

5.01. Terms Beginning With "A" Through "E"

14. Dedicate
The act of making an express, written transfer of property between individuals or agencies.
15. Dedication
The express, written transfer of property between individuals or agencies.
16. Developer
A person, including an authorized individual or agency, who undertakes the division, development, or improvement of land.
17. Development
All land modification activities, including the construction of buildings, streets, paved storage areas, parking lots, stormwater management facilities, and other impervious structures or surfaces.
18. Driveway
A means of access constructed within a public right-of-way, connecting a roadway with adjacent property and intended to provide vehicular access into that property in a manner that will not cause the blocking of any sidewalk, border area, or subsequent roadway.
19. Dwelling Unit
One (1) or more rooms designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of one household.
20. Easement
Authorization by a property owner for another to use any designated part of the owner's property for a specified purpose or use, and evidenced by an instrument or plat filed with the County Clerk.
21. ETJ
See Extraterritorial Jurisdiction.
22. Existing County Facility
A facility (e.g., property, improvement, roadway, infrastructure) that has been accepted for ownership and maintenance by the County.
23. Extraterritorial Jurisdiction
The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of a city, the outer limits of which are measured from the extremities of the corporate limits of a city outward for the distance as stipulated in TLGC Section 42.021, according to the inhabitants of the city.

5.02. Terms Beginning With “F” Through “J”

- 24. Federal Emergency Management Agency
The Federal Emergency Management Agency (FEMA), which is a federal agency of the U.S. Department of Homeland Security.
- 25. FEMA
See Federal Emergency Management Agency.
- 26. Final Plat
Refer to Section 3.04.B.2 above.
- 27. Floodplain
Any area that is susceptible to being inundated by water from a storm event (e.g., 10-, 25-, 100-year storm event), or that is otherwise identified by FEMA.
- 28. Frontage
All of the property line abutting the right-of-way line in which a property achieves its primary form of access, either by a driveway or other approved means.

5.03. Terms Beginning With “K” Through “O”

- 29. Licensed Professional Engineer
An individual authorized by the State to practice the profession of engineering.
- 30. Lot
A tract, or portion thereof, that is established via an approved and recorded subdivision, indicating that it is compliant with these regulations and suitable for development.
- 31. Lot, Corner
A lot that is located at an intersection of two (2) or more roadways, with roadway frontage on at least two (2) adjacent sides of the lot.
- 32. Maintenance Acceptance
Acceptance by the County of the maintenance responsibility for land improvements.
- 33. Manufactured Home Rental Community
A tract of land that is separated into two (2) or more spaces or lots that are rented, leased, or offered for rent or lease, for a limited term without a purchase option, for the installation of manufactured homes for use and occupancy as residences.
- 34. Major Thoroughfare Plan
The adopted Major Thoroughfare Plan of Brazos County, Texas.
- 35. Original Tract
A tract of land, including its ownership status, prior to a proposed subdivision.

Section 5. Definitions

5.04. Terms Beginning With "P" Through "T"

5.04. Terms Beginning With "P" Through "T"

- 36. Parcel
A legally defined unit of land established via deed or other instrument of conveyance, but not established by plat.
- 37. Plat
A map or plan, drawn to scale, illustrating the division of land into lots, blocks, roadways, easements or other properties, prepared and considered per these regulations.
- 38. Private Improvement
A privately owned and maintained (i.e., not County-owned or maintained) improvement made to a tract or tracts of land.
- 39. Property
Any interest in land held by an owner or owners, including lots, parcels, tracts, or combinations thereof, including all associated rights, easements, and appurtenances.
- 40. Property Owner
The holder(s) of a legal or equitable interest in property, as shown by the deed records of the County, and who may submit or be included in an application under these regulations.
- 41. Replat
Refer to Section 3.04.B.3 above.
- 42. Right-of-Way
A property dedicated for use by a roadway, utility, or other public facility.
- 43. Roadway
A thoroughfare facility that has been or is intended to be dedicated for public use within a right-of-way, and that may be publicly or privately owned and maintained.
- 44. Rural Subdivision
Refer to Section 4.01.A.2 above.
- 45. Setback
Lines within a property defining the minimum horizontal distance between a building and the adjacent property line.
- 46. Simplified Plat
Refer to Section 3.04.B.1 above.
- 47. State
The State of Texas.

- 48. Storm Event, 10-Year
An event that statistically has a 10% chance of occurring in any given year (i.e., a storm event that has an Annual Exceedance Probability (AEP) of 0.10).
- 49. Storm Event, 25-Year
An event that statistically has a 4% chance of occurring in any given year (i.e., a storm event that has an Annual Exceedance Probability (AEP) of 0.04).
- 50. Storm Event, 100-Year
An event that statistically has a 1% chance of occurring in any given year (i.e., a storm event that has an Annual Exceedance Probability (AEP) of 0.01).
- 51. Street
Refer to Roadway.
- 52. Structure
Anything constructed or erected that requires location on the ground or attached to something having a location on the ground, including advertising signs, billboards, and poster panels, but excluding customary fences or boundaries of retaining walls, sidewalks, and curbs.
- 53. Subdivision, Rural
Refer to Rural Subdivision.
- 54. Subdivision, Urban
Refer to Urban Subdivision.
- 55. Subdivision Variance
Refer to Section 3.04.C.1 above.
- 56. TCEQ
See Texas Commission on Environmental Quality.
- 57. Texas Commission on Environmental Quality
The Texas Commission on Environmental Quality (TCEQ), the environmental agency for the State.
- 58. Texas Department of Transportation
The Texas Department of Transportation (TxDOT), which is the agency responsible for the construction and maintenance of the State Highway system.
- 59. Tract
A contiguous area of land held in single ownership that can consist of one (1) or more parcels or lots.
- 60. TxDOT
Refer to Texas Department of Transportation.

Section 5. Definitions

5.05. Terms Beginning With "U" Through "Z"

5.05. Terms Beginning With "U" Through "Z"

61. Urban Subdivision

Refer to Section 4.01.A.1 above.

62. Utility

All improvements related to the provision, distribution, collection, transmission, or disposal of water, stormwater, sanitary sewage, oil, gas, power, information, and telecommunication.

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