

**DUVAL COUNTY
STATE OF TEXAS**

**SUBDIVISION RULES
&
REGULATIONS**

DUVAL COUNTY
ARASELI B. LICHTENBERGER
Duval County Clerk
San Diego, Texas 78384

30559



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Instrument Number: 2023-30559

As

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State of Texas

County of Duval

I hereby certify that this Instrument was filed on the date and time stamped hereon and was duly recorded in the volume and page in the OFFICIAL RECORDS of Duval County, Texas
Araseli B. Lichtenberger
Duval County Clerk

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By: Nancy Munoz Deputy

Item # 16

AUSTIN, TEXAS 78711
512/463-7847
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TEXAS WATER DEVELOPMENT BOARD



*Economically Distressed
Areas Program
Model Subdivision Rules*

Effective Date
5/30/90

for **WATER**



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The Model Rules establish minimum standards for water and wastewater facilities for residential developments where the lots are ~~one~~ ^{five} acres or less. The rules do not specify the procedural requirements of subdivision approval. Counties must adopt their own procedural system for subdivision approval which may include review and approval of both a preliminary and final plat.

For properly platted subdivisions, cities and counties are required by Sections 212.0115 and 232.0046 Local Government Code, to issue certificates stating that the plat has been reviewed and approved. Cities and counties may adopt rules necessary to administer this certificate process.

There are several places in these model rules where the county will need to complete definitions and fill in blank spaces with the appropriate information.

The county may need to repeal some or parts of its other rules that duplicate or conflict with the model subdivision rules. The section entitled "Repealer" may be deleted, if no repeals are required.

The county may revise or delete Subsections 2.3(b)(4) and (5) of these model rules to eliminate the references to areas which are not within the jurisdiction of the county.



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As minimum state standards change, counties receiving financial assistance under the Economically Distressed Areas Program will be required to amend their rules.

The county may retype these model rules and change the way the chapters are numbered and sections are structured to be consistent with its other regulations. Prior EA permission for these changes is not necessary. Counties need not follow the exact format of the model rules.

A municipality may adopt the model rules by making appropriate substitutions on the Model Rules. The language of Section 212.004(a) Local Government Code should be substituted for Section 1.5(a) of the Model Rules. The definition of extraterritorial jurisdiction should follow the definition contained in Chapter 42 Local Government Code. The appropriate municipal approval entity should be substituted for county officials and the commissioners court. Municipalities are reminded that they may adopt rules relating to water supply and sewer services within their extraterritorial jurisdiction that are more strict than those provided for in the model rules; see Section 16.350(d) Texas Water Code.

The attorney general shall prepare a list briefly describing the powers and duties given to the counties of this state regarding the regulation of land use, the regulation of structures, the platting and subdividing of land, and the



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Instructions on Adoption of Model Subdivision Rules

These model rules were developed under the authority of Section 16.343 of the Texas Water Code.

The county must adopt and enforce these model rules before the county, water districts or water supply corporations located within the county and outside the boundaries of a municipality can participate in the Economically Distressed Areas financial assistance programs under Section 15.407 of the Water Code or Subchapter K, Chapter 17, of the Texas Water Code. Rules adopted by the commissioners court under this section must apply to all the unincorporated area of the county.

The county must become an authorized agent of the Texas Natural Resource Conservation Commission (TNRCC) for the administration of an on-site waste disposal permitting program in accordance with Chapter 366 of the Texas Health and Safety Code. If not already authorized, the county should contact the appropriate regional office of the TNRCC for additional information on the delegation procedure.

The county must follow the Open Meetings Act, Tex. Rev. Civ. Stat. Ann. art 6252-17 (Vernon 1989), relative to the adoption of these rules. The Water Code Section 16.350 requires that the county by order or ordinance adopt and enter the model rules in the minutes of a meeting of the commissioners court and publish



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notice of that action in a newspaper with general circulation in the county. Local Government Code Section 233.003 establishes procedural requirements for counties adopting setback regulations.

The Model Subdivision Rules are not intended to be a complete county Subdivision Order. In keeping with the provisions of Senate Bill 2, the model rules apply only to residential developments with tracts of ~~one~~ ^{five} acres or less. No provision is made in these rules for roads and drainage. It is intended that each county develop its own standards for subdivisions with tracts of more than ~~one~~ ^{five} acres, road and drainage standards, or other requirements that the county has authority to regulate. Each county will be responsible for implementing these rules into their other lawful regulations. Counties are reminded that Section 16.350 of the Water Code requires the county commissioners to adopt the rules in the form of model rules developed under Section 16.350. Counties that want to enact road standards may wish to consult "Standard Specifications for Construction of Highways, Streets and Bridges" that is adopted by the Texas Department of Transportation (TxDOT). The financial guarantees of Section 3.4 are to guarantee construction of water and wastewater facilities. The financial guarantees under Section 3.4 are in addition to any local requirements for financial guarantees for construction of roads adopted pursuant to Section 232.004 of the Local Government Code.



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provision, and regulation of water, sewer, and other utility service to residential property. This list also must contain a citation to the law under which each power or duty is established. On a biennial basis, the attorney general shall update the list and send a copy to the county judge of each county in the state.

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CHAPTER 1 GENERAL AND ADMINISTRATIVE PROVISIONS

Section 1.1 Authority and Scope of Rules.

These rules are adopted under the authority of Chapter 232 of the Local Government Code, and Section 16.342 of the Texas Water Code. Notwithstanding any provision to the contrary, these rules apply only to residential developments with tracts of ~~one~~ ^{five} acres or less.

Section 1.2 Purpose.

It is the purpose of these rules to promote the public health of the county residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of this county, and to establish the minimum standards for water and wastewater facilities.

Section 1.3 Effective Date.

These rules become effective on the 13th day of May, 1990.

adopted before.
Section 1.4 Repealer. - *No regulations or Ordinances had been*
The _____ (regulations) (ordinance) adopted on the _____ day of _____, 19____, are hereby repealed, except as to such sections which are retained herein.

Section 1.5 Plat Required.

(a) The owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to lay out a subdivision of the tract, including an addition, or to



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lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared.

(b) (1) No subdivided land shall be sold or conveyed until the subdivider:

(A) has received approval of a final plat of the tract; and

(B) has filed and recorded with the county clerk of the county in which the tract is located a legally approved plat.

(2) A division of a tract is defined as including a metes and bounds description, or any description of less than a whole parcel, in a deed of conveyance or in a contract for a deed, using a contract of sale or other executory contract, lease/purchase agreement, or using any other method to convey property.

Section 1.6 Supersession.

These rules supersede any conflicting regulations of the county.

Section 1.7 Severability.

If any part or provision of these regulations, or application thereof, to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly



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involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The county commissioners court hereby declares that it would have enacted the remainder of these regulations without any such part, provision or application.

Section 1.8 Conflict of Interest.

(a) Any member of the county commissioners court who has a substantial interest in a subdivided tract shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(b) For the purposes of this section a person with substantial interest is one who:

(1) has an equitable or legal ownership interest in the tract with a fair market value of two thousand five hundred dollars (\$2,500) or more;

(2) acts as a developer of the tract;

(3) owns ten percent (10%) or more of the voting stock or shares of or owns either ten percent (10%) or more or \$5,000 or more of the fair market value of a business entity that:

(A) has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more;
or



(B) acts as a developer of the tract; or
(4) receives in a calendar year funds from a business entity described by subdivision (3) that exceed ten percent (10%) of the person's gross income for the previous year.

(c) A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity to another person who, under subsection (b), has a substantial interest in the tract.

(d) For the purposes of this section, a tract includes the subdivided tract as a whole, not an individual lot.

(e) The finding by a court of a violation of this section of these rules does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court without the vote of the member who violated this section.

Section 1.9 Definitions. The following words and terms, when used in these rules, shall have the following meanings.

Commissioners court, or court, the Duval County Commissioners Court.

Drinking water, all water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings.



Engineer. a person licensed and authorized to practice engineering in the State of Texas under The Texas Engineering Practice Act.

Final plat. a map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the county records and prepared as described in these regulations.

Lot. an undivided tract or parcel of land contained within a block and designated on a subdivision plat by an alpha-numeric identification and having frontage or access to an existing or proposed private or public street.

Non-public water system. any water system supplying water for domestic purposes which is not a public water system.

Platted. recorded with the county in an official plat record.

Public water system. a system for the provision to the public of piped water for human consumption, which includes all uses described under the definition for drinking water. Such a system must have a potential for at least fifteen (15) service connections or serve at least twenty five (25) individuals at least sixty (60) days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than fifteen (15)

connections or less than twenty five (25) individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are fifteen (15) or greater or if the total number of individuals served by the combined systems total twenty five (25) or more at least sixty (60) days out of the year.

Purchaser. shall include purchasers under executory contracts for conveyance of real property.

Sanitarian. a person registered as a Professional Sanitarian by the Texas Department of Health under the authority of Vernon's Ann. Tex. Civ. Stat. Article 4477-3.

Sewerage facilities. the devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.

Subdivider. any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.

Subdivision. any tract of land divided into two or more parts for the purpose of laying out lots, or suburban lots, or building lots, and streets, alleys, squares, parks, or other portions intended for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto. A



subdivision includes re-subdivision (replat) of land which was previously divided.

Water facilities, any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use and consumption.

CHAPTER 2 MINIMUM STANDARDS

Section 2.1. Scope of standards. The establishment of residential developments with tracts of ~~one~~ ^{five} acres or less where the water supply and sewer services do not meet the minimum standards of this Chapter are prohibited. Subdivisions with tracts of ~~one~~ ^{five} acres or less are presumed to be residential developments unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.

Section 2.2. Water Facilities Development

(a) Public Water Systems.

(1) Where drinking water is to be supplied to a subdivision from a central system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 25 TAC 337.201 - 337.212, "Rules and Regulations for Public Water Systems", and 25 TAC 337.1 - 337.18, "Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems."

(2) Subdividers who propose to supply drinking water by connecting to an existing central system must provide a



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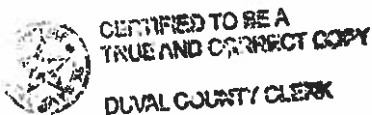
written agreement with the public water purveyor. The agreement must accommodate the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years.

(b) Non-public water systems. Where individual wells are proposed for the supply of drinking water to residential establishments, the following conditions and requirements shall be observed:

(1) a test well or wells located so as to be representative of the quality of water generally available from the supplying aquifer shall be drilled by the subdivider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The results of such analyses shall be made available to prospective property owners.

(2) the water quality of individual wells must, after treatment, meet the standards of quality for community water systems established by 25 TAC Sections 337.3, 337.4, 337.10, and 337.14.

(c) Transportation of potable water. The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute an emergency.



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Section 2.3. Wastewater Disposal

(a) Organized Sewerage Facilities.

(1) Subdividers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the Texas Water Commission in accordance with 31 TAC Chapter 305 "Consolidated Permits" and obtain approval of engineering planning materials for such systems under 31 TAC Chapter 317 "Design Criteria for Sewerage Systems" from the Texas Water Commission.

(2) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement with the permittee. The agreement must accommodate the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years. Engineering plans for the proposed wastewater collection lines must be approved by the Texas Water Commission prior to construction.

(b) On-site Facilities

(1) On-site facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of one thousand (1,000) gallons per day up to five thousand (5,000) gallons per day must be designed by a registered professional engineer or registered professional sanitarian.

(2) Proposals for on-site sewerage facilities for the on-site disposal of sewage in the amount of five thousand (5,000) gallons per day or greater must be presented to the Texas



Natural Resource Conservation Commission (TNRCC)

██████████ for determination of the necessity for a wastewater permit from that agency. Each such disposal facility must be designed by a registered professional engineer.

(3) On-site sewerage facilities not required to obtain a wastewater permit from the ^{TNRCC} ██████████ must apply for and receive a permit from the Texas Department of Health or its authorized agent as required by the procedures established in 25 TAC 301.101 through 301.109.

(4) On-site Sewage Disposal Near Lakes. On-site sewerage facilities proposed near lakes must be licensed and installed in strict accordance with requirements established by the Texas Water Commission in their rules 31 TAC Chapter 285.

(5) On-site Wastewater Disposal in Recharge Zones. On-site sewerage facilities proposed within aquifer recharge zones must be licensed and installed in strict accordance with requirements established by the ^{TNRCC} ██████████ in 31 TAC Chapter 313 and applicable Texas Department of Health regulations.

(6) Review, Inspection and Permitting of On-Site Sewerage Facilities. The Texas Department of Health or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with Chapter 366 of the Texas Health and Safety Code and rules 25 TAC Sections 301.11 through 301.17 and any additional applicable sections, "Construction Standards for On-site Sewerage Facilities." In



addition to the unsatisfactory on-site disposal systems listed in 25 TAC 301.16, pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

Section 2.4 Greywater Systems for Reuse of Treated Wastewater.

(a) Organized or Municipal Sewerage Systems. Any proposal for sewage collection, treatment and disposal which includes greywater reuse shall meet minimum criteria of 31 TAC, Chapter 310.1 - 310.17, "Use of Reclaimed Water," promulgated and administered by the TNRCC.

(b) On-Site Sewerage Facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 25 TAC, Chapter 301, Section 301.17, contained within the "Construction Standards for On-Site Sewerage Facilities" promulgated by the Texas Department of Health.

Section 2.5 Sludge Disposal. The disposal of sludge from water treatment and wastewater treatment facilities shall meet the criteria of 25 TAC, Chapter 325, Subchapters N and X, and 31 TAC Chapter 317.

Section 2.6 Setbacks. In areas that lack a nationally recognized fire code as listed in Section 235.002 Local Government Code (Acts 1989, 71st Leg., ch. 296) and lack water lines sized for fire protection, setbacks from roads and right-of-ways shall be a minimum of ten (10) feet, setbacks from



adjacent property lines shall be a minimum of five (5) feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies.

Section 2.7 Number of Dwellings Per Lot. No more than one single family detached dwelling shall be located on each tract. A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Notice of this restriction must be given by the seller to purchasers prior to execution of any binding agreement for sale or conveyance of any real estate. Proposals which include multi-family residential shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type and design.

CHAPTER 3 PLAT APPROVAL

Section 3.1 Applications for Plat Approval.

(a) Owner representation. An application for approval of a plat shall be filed with the county by the record owner of the property to be subdivided or the duly authorized agent of the record owner.

(b) Standards. All plats with a tract or tracts of ~~one~~ ^{five} acres or less for residential developments shall comply with the minimum standards of Chapter 2 of these rules.



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Section 3.2 Final engineering report. The final plat shall be accompanied by an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the county shall be provided for those unconstructed water supply and distribution facilities and wastewater collection and treatment facilities which are necessary to serve the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under Section 3.4 of this Chapter, the schedule shall include the start dates and completion dates.

(A) Non-public water systems. Where individual wells are proposed for the supply of drinking water to residences establishments, the subdivider shall include the quantitative and qualitative results of sampling the test wells in accordance with Section 2.2 of these rules. The results of such analyses shall be made available to the prospective property owners. The engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed subdivision over the next thirty (30) years. Such statement may be based on information available from the Texas Water Development Board's Groundwater Unit of the Water Data Collection



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and Planning Division. The description of the needed sanitary control easement shall be included.

(B) On-site sewerage facilities. Where private on-site sewerage facilities are proposed, the final engineering report shall include the soils information and percolation test results required for a Subdivision Construction Authorization under Chapter 8 of the county's rules for On-Site Sewerage Facilities.

(C) Centralized public water systems.

(I) Where water supplies are to be provided by an existing political subdivision of the state, including a city, municipal utility district, water control and improvement district, nonprofit water supply corporation, or an existing investor-owned water supply corporation, the subdivider shall furnish an executed contractual agreement between the subdivider and the governing board of the entity or owner of the utility to the effect that necessary arrangements have been made by the subdivider and the entity for the provision of a sufficient water supply to serve the ultimate needs of the subdivision for a term of not less than thirty (30) years. Before final plat approval, plans and specifications for the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed project. Entities having jurisdiction, in this instance, may include the political subdivision in addition to the Texas Department of Health and the County Health Department. If groundwater is to be the source of



the water supply, the final engineering report shall include a groundwater availability study which shall include comments regarding the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.

(II) Where there is no existing entity or owner to construct and maintain the proposed water facilities and distribution facilities, the subdivider shall establish an investor-owned utility and obtain a Certificate of Convenience and Necessity (CCN) from the TNRCC and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include an analysis of the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated to satisfy the ultimate fully developed needs of the subdivision.

(D) Centralized sewerage facilities.

(I) Where wastewater treatment capacity is to be provided by a political subdivision of the state,



including a city, municipal utility district, water control and improvement district or nonprofit water supply corporation, or an existing investor-owned water supply corporation, the subdivider shall furnish evidence of a contractual agreement between the subdivider and the governing board of the entity or owner of the utility to the effect that necessary arrangements have been made by the subdivider and the entity for the provision of sufficient wastewater treatment capacity to serve the ultimate full build-out needs of the subdivision for a term of not less than thirty (30) years. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the Texas Water Commission and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.

(II) Where there is no existing entity or owner to construct and maintain the proposed wastewater treatment and collection facilities, the subdivider shall establish an investor-owned utility by obtaining a Certificate of Convenience and Necessity (CCN) from the TNRCC.

Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the TNRCC and plans and specifications for the proposed wastewater collection and treatment facilities shall



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have been approved by all entities having jurisdiction over the proposed project.

Section 3.3 Additional Information. A county may, at its option, require additional information necessary to determine the adequacy of proposed water and wastewater improvements as part of the plat approval process. Such information may include, but not be limited to:

- (a) layout of proposed street and drainage work
- (b) legal description of the property
- (c) existing area features
- (d) topography
- (e) flood plains
- (f) description of existing easements
- (g) layout of other utilities
- (h) notation of deed restrictions
- (i) public use areas
- (j) proposed area features

Section 3.4 Financial Guarantees for Improvements.

(a) Applicability. If an adequate public or non-public water system or wastewater facility is not available from another entity, or are not constructed by the subdivider, to serve lots intended for residential purposes of ~~one~~^{five} acres or less at the time final plat approval is sought, then the commissioners court shall require the owner of the subdivided tract to execute an agreement with the county secured by a bond or other alternative financial guarantees such as a cash deposit or a letter of credit. Lots of



^{five}
~~one~~ acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.

(b) Bonds. The bond shall meet the following requirements:

(1) The bond or financial guarantee shall be payable to the county judge of the county, in his official capacity, or the judge's successor in office.

(2) The bond or financial guarantee shall be in an amount determined by the commissioners court to be adequate to ensure proper construction or installation of the public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.

(3) The bond shall be executed with sureties as may be approved by the county commissioners court. The county shall establish criteria for acceptability of the surety companies issuing bonds that include but are not limited to:

(A) registration with the Secretary of State and be authorized to do business in Texas; and

(B) authorization to issue bonds in the amount required by the county commissioners court and:

(C) rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such



rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury.

(4) The bond shall be conditioned upon construction or installation of water and wastewater facilities meeting the criteria established by Chapter 2 of these rules and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the county commissioners court.

(c) Letter of credit. A letter of credit shall meet the following requirements:

(1) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$10,000 and less than \$250,000 must be from financial institutions which meet the following qualifications:

(A) Bank qualifications:

(I) Must be federally insured,

(II) Sheshunoff rating must be ten or better and primary capital must be at least six percent (6.0%) of total assets, and



(III) Total assets must be at least twenty-five million dollars.

(B) Savings and loan association qualifications:

(I) Must be federally insured,

(II) Tangible capital must be at least one and a half percent (1.5%) of total assets and total assets must be greater than twenty-five million dollars, or tangible capital must be at least three percent (3.0%) of total assets if total assets are less than twenty-five million dollars,

(III) Sheshunoff rating must be thirty or better.

(C) Other financial institutions qualifications:

(I) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment,

(II) the investment instrument must be registered in the county's name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.

(2) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$250,000 must be from financial institutions which meet the following qualifications:

(A) Bank qualifications:

(I) Must be federally insured,



(II) Sheshunoff rating must be thirty or better and primary capital must be at least seven percent (7.0%) of total assets, and

(III) Total assets must be at least seventy-five million dollars.

(B) Savings and loan association qualifications:

(I) Must be federally insured,

(II) Tangible capital must be at least three percent (3.0%) of total assets and total assets must be greater than seventy-five million dollars, or tangible capital must be at least five percent (5.0%) of total assets if total assets are less than seventy-five million dollars,

(III) Sheshunoff rating must be thirty or better.

(C) Other financial institutions qualifications:

(I) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment,

(II) the investment instrument must be registered in the county's name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.

(3) The letter of credit shall list as sole beneficiary the county judge of the county, in his official



capacity, or the judge's successor in office, and must be approved by the county judge of the county. The form of the letter of credit shall be modeled after the form in Exhibit A to these rules.

(4) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Chapter 2 of these rules and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the county commissioners court.

(d) Financial guarantee. The county will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.

Section 3.5 Review and Approval of Final Plats.

(a) Scope of review. The county will review the final plat to determine whether it meets the standards of Chapter 2 and the requirements of Chapter 3.

(b) Disapproval authority. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under these rules.

(c) Prerequisites to approval. Final plat approval shall not be granted unless the subdivider has accomplished the following:



(1) dedicated the sites for the adequate water and wastewater treatment facilities to the appropriate political subdivision or investor owned utility responsible for operation and maintenance of the facilities, and

(2) provided evidence that the water facilities and wastewater facilities have been constructed and installed in accordance with the criteria established within these rules and the approvals from the TNRCC,

as appropriate, of the plans and specifications for such construction, including any change orders filed with these agencies, or

(3) obtained all necessary permits for the proposed water facilities and wastewater facilities and has entered into a financial agreement with the county secured by a bond or other alternative financial guarantee such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in Chapter 3 of these rules.

Section 3.6 Time Extensions For Providing Facilities

(a) Reasonableness. The commissioners court of the county may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if the court finds the extension is reasonable and not contrary to the public interest.



(b) Timeliness. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.

(c) Unreasonableness. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Chapter 2 of these rules.

CHAPTER 4 ENFORCEMENT

Section 4.1 Oversight. The owner, by submitting a plat, acknowledges the authority of the county and state agencies to lawfully enter and inspect property for purposes of execution of their statutory duties. Such inspection will not release the owner from any obligation to comply with the requirements of these rules.

Section 4.2 General Enforcement Authority of County.

(a) Legal Action. At the request of the commissioners court, a county attorney or other prosecuting attorney may file an action in a court of competent jurisdiction to:

(1) enjoin the violation or threatened violation of a requirement established by or adopted by the commissioners court under Chapter 232 of the Local Government Code; or

(2) recover damages in an amount adequate for the county to undertake any construction or other activity to bring about compliance with a requirement established by or adopted by the commissioners court under Chapter 232.



(b) Offense. A person commits an offense if the person knowingly or intentionally violates a requirement established by or adopted by the commissioners court under Chapter 232. An offense under this section is a Class B misdemeanor.

Section 4.3 Enforcement Of Subdivision Rules By Counties.

(a) Civil Penalty. A person who violates a rule adopted by a county pursuant to Section 16.343 of the Water Code is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each violation and for each day of a continuing violation but not in excess of \$5,000 per day.

(b) Criminal Penalty. A person commits an offense if the person knowingly or intentionally violates a rule adopted pursuant to Section 16.343 of the Water Code by a county or municipality. A member of the commissioners court commits an offense if the member violates Section 1.8 of these rules.

(c) Offense Class. An offense under subsection (b) of this section is a Class B misdemeanor. An offense under Section 1.8 of these rules is a Class A misdemeanor.

Section 4.4 Injunction. In addition to other remedies, the attorney general, the county or district attorney of the county in which the violation occurred, or other local officials are authorized to apply to the district court for and the court in its discretion may grant the state or political subdivision without bond or other undertaking, any injunction that the facts may warrant including temporary restraining orders, temporary



injunctions after notice and hearing, and permanent injunctions enjoining a violation of the rules.

Section 4.5 Enforcement of Model Rules by Attorney General. In addition to enforcement by a political subdivision, the attorney general may bring suit to enforce a rule adopted under Section 16.350 of the Water Code, to recover the penalty provided by Section 16.352 of the Water Code, to obtain injunctive relief to prevent the violation or continued violation of a political subdivision's rules, or to enforce the rules, recover the criminal penalty, and obtain injunctive relief.

Section 4.6 Enforcement of Engineering Certificate.

(a) Attorney General Action. The attorney general may take any action necessary to enforce a requirement imposed by or under Section 232.0035 or 232.0036 of the Local Government Code, or to ensure that the water and sewer service facilities are constructed or installed to service a subdivision in compliance with the model rules adopted under Section 16.343, Water Code.

(b) Civil Penalty. A person who violates Section 232.0035 or 232.0036 of the Local Government Code, or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on the plat or on the document attached to the plat, as required by Section 232.0035 is subject to a civil penalty of not less than \$500 nor more than \$1,000 plus court costs and attorney's fees.

(c) Offense. An owner of a tract of land commits an offense if the owner knowingly or intentionally violates a



requirement imposed by or under Section 232.0035 or 232.0036 of the Local Government Code or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on a plat or on a document attached to a plat, as required by Section 232.0035. An offense under this subsection is a Class B misdemeanor.

(d) Definition. A reference in this section to an "owner of a tract of land" does not include the owner of an individual lot in a subdivided tract of land.

Approved by the Duval County Commissioners Court at a duly called meeting on May 13, 1946.


*Edmundo B. Garcia, Jr.
Duval County Judge*

FILED FOR RECORD
AT O'CLOCK M

MAY 13 1946

OSCAR GARCIA, JR.
Clerk County Court, Duval County, Texas
Edmundo B. Garcia Deputy

This instrument is true and correct copy of the Original on file of record in my office. Attest: *1-25-1946*


COUNTY CLERK
DUVAL COUNTY, TEXAS
BY: *Mary M. [Signature]* DEPUTY

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