

ADOPTED 07-27-04

LIBERTY COUNTY

RULES

FOR

SUBDIVISIONS

&

DEVELOPMENT

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A RESOLUTION AND ORDER OF THE COMMISSIONERS COURT OF LIBERTY COUNTY, TEXAS ADOPTING ROAD AND DRAINAGE STANDARDS FOR SUBDIVISIONS AND DEVELOPMENTS IN LIBERTY COUNTY, TEXAS

WHEREAS, Liberty County (the County) is a governmental agency; and

WHEREAS, the Liberty County Commissioners Court have determined there exists a need for road and drainage standards for subdivisions and development in Liberty County, Texas; and

WHEREAS, the new road and drainage standards for subdivisions and development in Liberty County, Texas shall supersede all existing road and drainage standards heretofore passed by the Commissioner Court.

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

1. Findings. The recitations hereinafter are found to be true and correct.
2. Approval of Adopting Road and Drainage Standards for Subdivisions and Development in Liberty County, Texas. The road and drainage standards for subdivisions and development are attached and made a part hereof for all purposes as Exhibit "A". The road and drainage standards are approved, confirmed and ratified, and the County Judge is hereby authorized and directed to execute such order.
3. Ratification of Actions. All actions heretofore taken by the members of the Commissioners Court and all things done by the County Judge, pursuant to their official authority, including the action taken on this date with respect to the above referenced Road and Drainage Standards, be and the same are hereby ratified, approved and adopted as the acts of the Commissioners Court.
4. Effective Date. This Order shall be in full force and effect from and after its passage on the date shown below.
5. Open Meetings. It is hereby officially found and determined that this meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as requested by the Open Meeting Act, Chapter 551, Texas Government Code.

ADOPTED AND PASSED this the 27th day of July, 2004.

LIBERTY COUNTY, TEXAS


COUNTY JUDGE

ATTEST:


LIBERTY COUNTY CLERK

ORDER

THE STATE OF TEXAS §
COUNTY OF LIBERTY §

The Commissioners Court of Liberty County, Texas, convened in the Courthouse in the City of Liberty, Texas, on the 27th day of July, 2004, with the following members present, to-wit:

<u> </u> x	Lloyd Kirkham	County Judge
<u> </u> x	Todd Fontenot	Commissioner, Precinct No. 1
<u> </u> x	Lee Groce	Commissioner, Precinct No. 2
<u> </u> x	Melvin Hunt	Commissioner, Precinct No. 3
<u> </u> x	Norman Brown	Commissioner, Precinct No. 4

and the following members absent, to-wit: _____, constituting a quorum, when among other business, the following was transacted:

ORDER ADOPTING ROAD AND DRAINAGE STANDARDS FOR SUBDIVISIONS AND DEVELOPMENT IN LIBERTY COUNTY, TEXAS

Commissioner Brown introduced an order and made a motion that the same be adopted. Commissioner Fontenot seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Kirkham	<u> </u>	<u> </u>	<u> </u>
Comm. Fontenot	<u> </u> x	<u> </u>	<u> </u>
Comm. Groce	<u> </u> x	<u> </u>	<u> </u>
Comm. Hunt	<u> </u> x	<u> </u>	<u> </u>
Comm. Brown	<u> </u> x	<u> </u>	<u> </u>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

IT IS ORDERED that the ROAD AND DRAINAGE STANDARDS FOR SUBDIVISIONS AND DEVELOPMENT IN LIBERTY COUNTY, TEXAS are adopted and these standards and specifications replace and supersede any all guidelines, standards or specifications heretofore in effect in Liberty County, and shall be the sole basis of determining standards and specifications for subdivisions submitted for approval on or after July 27, 2004, unless a specific variance is granted by Order of the Court, or these standards and specifications are amended or replaced by the Court.

**SECTION 1
DEFINITIONS**

All capitalized terms used in these Regulations shall have the meaning ascribed to them in this Section, unless no definition is found in this Section, in which case the meaning should be drawn by the context and common English usage.

- 1.1 Applicant – An Owner or authorized representative seeking approval of a proposed Subdivision pursuant to these Regulations.
- 1.2 Checklist, Preliminary Plat – An itemization of requirements that must be met for Preliminary Plat review. These requirements are more fully outlined in Article 4.
- 1.3 Checklist, Final Plat – An itemization of requirements that must be met for the Final Plat review. These requirements are more fully outlined in Article 5.
- 1.4 Commissioners Court – The Commissioners Court of Liberty County.
- 1.5 County – Liberty County, Texas
- 1.6 County Clerk – The County Clerk of Liberty County.
- 1.7 Designated Agent – A County employee, County department, or outside consultant designated to perform certain duties laid out in the Subdivision and Development Regulations or the Road and Drainage Specifications on behalf of the County.
- 1.8 Precinct Commissioner – The elected County Commissioner in whose precinct the Subdivision or development project is proposed.
- 1.9 Flag Lot – A Flag Lot is a Lot designed to provide a minimum avenue of road access while allowing other Lots to be stacked around it, so that the result is a Lot which is often shaped something like a flag, with a “flag pole” of access stretching out to the nearest road – and other “flag poles” adjacent, leading to more “flag lots”. As provided for in Chapter 251 of the Texas Transportation Code and in other state laws the County has the general authority and responsibility for road and drainage maintenance and safety. Minimum driveway spacing is one critical component of both public safety and effective road and drainage maintenance where County equipment must operate in barrow ditches or along rural road shoulders. The Texas Association of Counties, working with professional engineers and planners, has reported on the problems created by Flag Lots in many counties in Texas – problems related to inadequate road and driveway access, shoulder maintenance, drainage maintenance, addressing, the delivery of emergency services, school bus routing, and the preservation of adequate sight distance for public safety. Therefore, Flag Lots shall generally not be permitted, except if approved by the

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Commissioners Court as consistent with the intent and spirit of these Regulations. The Precinct Commissioner or Designated Agent shall advise the Commissioners Court if a proposed Lot constitutes a “Flag Lot” and the Commissioners Court shall, in reviewing all the circumstances, make the final determination as part of the Subdivision process.

- 1.10 Final Plat – A map of a proposed Subdivision of land prepared in a form suitable for filing of record with all necessary survey drawings, notes, information, affidavits, dedications and acceptances as required by these Regulations.
- 1.11 Finished Floor Elevation – One foot above the elevation shown on the Flood Insurance Rate Map that indicates the water surface elevation resulting from a flood that has a one (1) percent chance of equaling or exceeding that level in any given year.
- 1.12 Lot – Any tract to be created by the division of the Original Tract pursuant to the proposed Subdivision application, including the remainder of the Original Tract.
- 1.13 NGVD 83 Datum – National Geodetic Vertical Datum dated 1983.
- 1.14 Original Tract – The parcel of land owned by an Owner prior to the proposed Subdivision of this parcel.
- 1.15 Owner – The owner of real property subject to a proposed or existing Subdivision.
- 1.16 Permitted Street – A Street that meets the requirements of Liberty County under these Regulations.
- 1.17 Preliminary Plat – A map of proposed Subdivision of land showing the general dimensions and boundaries of each Lot, Topography, Floodplain, the layout of proposed streets, drainage improvements, utility infrastructure, any easements, and other information required by these Regulations. The Preliminary Plat shall show the entire tract of land being proposed for development, including contiguous land owned by the same party, even when the project is planned for multiple phase development.
- 1.18 Record Plat – A Final Plat that has been approved by the Commissioners Court and is prepared by the Applicant for recordation in the Plat Records of Liberty County.
- 1.19 Rules – The Liberty County Subdivision and Development Rules.
- 1.20 Serve – To provide a formal copy or application, such as a proposed Subdivision plat or Subdivision Application, and to obtain a receipt for its delivery. For example, a completed copy of the Preliminary Checklist must be served to the County Judge and the Precinct Commissioner.

- 1.21 Subdivision – The division of land located within Liberty County outside the corporate limits of a municipality into two or more parcels to lay out: (1) a subdivision of the tract, including an addition; (2) lots; or (3) streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. Subdivision of a tract includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for deed, by using a contract for sale or other executory contract to convey, or by using any other method.

Because County review of subdivision and development activity can be important to many aspects of public health and safety – such as drainage and flood control, 9-1-1 addressing, septic tank sizing and road planning, among others – it is the intent of the Commissioners Court of Liberty County that the term “subdivision” be interpreted to include all divisions of land to the fullest extent permitted under the laws of the State of Texas, except where specific exceptions may be noted in these rules.

**SECTION 2
GENERAL SUBDIVISION REQUIREMENTS**

- 2.1 **General Requirements.** Any Applicant who subdivides a tract of land shall: Comply in all respects with these Regulations; and
- 2.1.1 Prepare and submit to the Commissioners Court an application for approval of the proposed Subdivision in accordance with the terms and procedures set forth in these regulations.
- 2.2 **Subdivision Approval Process.** No Subdivision shall be permitted until the Applicant has satisfied each of the following steps in the order indicated:
- 2.2.1 Submitted a completed Preliminary Checklist with the County Clerk.
- 2.2.2 Served a copy of the completed Preliminary Checklist to both the County Judge and the Precinct Commissioner.
- 2.2.3 Obtained approval of Preliminary Plat by the Commissioners Court.
- 2.2.4 Submitted a completed and dated Final Checklist with the County Clerk.
- 2.2.5 Served a copy of the completed Final Checklist to both the County Judge and the Precinct Commissioner.
- 2.2.6 Obtained approval of Final Plat by the Commissioners Court.
- 2.2.7 Filing of Record Plat with the County Clerk, to be recorded in the Plat Records of the County.
- 2.3 **Transmittal Materials.** All submittals to the Commissioners Court pursuant to these Regulations, including amendments or supplemental materials, shall be delivered to the County Clerk's office and shall be accompanied by a letter of transmittal indicating:
- 2.3.1 The name, address and phone number of the Owner and, if different, the developer or applicant.
- 2.3.2 The name, address and phone number of any person submitting the materials on behalf of the owner.
- 2.3.3 The name of the proposed Subdivision.

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- 2.3.4 The size and location of the Original Tract or, a reference number if one has previously been assigned; and
- 2.3.5 A detailed description of the requested actions.
- 2.4 **Communication with Precinct Commissioner.** The Applicant is strongly recommended to contact the Precinct Commissioner prior to the submittal of the Preliminary Plat Checklist.
- 2.5 **Application Materials.** Each application for Preliminary Plat or Final Plat shall include the following:
 - 2.5.1 Eight 24” X 36” blue-line or black-line copies of the Preliminary Plat or twelve 24” X 36” blue-line or black-line copies of the Final Plat and an electronic copy of the final plat provided that the County may require up to four additional copies of the Preliminary Plat,
 - 2.5.2 The applicable application fee, (Allowed by Local Government Code 232.0021 Chapter “A”) Set out in Section 2.8
 - 2.5.3 A tax certificate showing that all taxes currently due with respect to the Original Tract have been paid,
 - 2.5.4 A letter from the Liberty County 911 Addressing Department approving the proposed street names on the plat,
 - 2.5.5 A completed Utility Checklist and required letters from utility providers,
 - 2.5.6 A completed application form in the current form promulgated by the County, and
 - 2.5.7 All other documents or reports required pursuant to these Regulations and any associated Construction Security.
- 2.6 **Record Plat.** Two duplicate 24” X 36” photographic mylars of the approved Final Plat with any revisions required by the Commissioners Court shall be presented to the County Clerk for recording as the Record Plat. All text on the Record Plat must be no smaller than 0.09” in height for legibility.
- 2.7 **Application Review Periods.** The County will meet the review deadlines established by Chapter 232.0025 of the Texas Local Government Code.
- 2.8 **Application Fees.** Upon filing the Preliminary Plat Application, the Applicant shall pay a plat application fee in the amount of \$250 plus \$20 per Lot for the first 100 Lots and \$15 per Lot for each Lot over 100 Lots;

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- 2.9 **Subdivision within ETJ of a City.** Whenever an Original Tract lies within the extraterritorial jurisdiction of an incorporated city, it may be subject to the rules of both the City and the County. Liberty County will seek to work with cities to coordinate subdivision and land development requirements to make this process as manageable as possible. Applicants should contact the city or the County Judge's office to determine which set of rules and approval procedures apply to them, but generally the Applicant should obtain approval of the municipality before obtaining final review by the County. As required by the Texas Property Code, the County Clerk may not record a plat unless approved by proper regulatory authority. In the event the land is subject to both city subdivision regulations and these Subdivision regulations then the stricter standard shall apply and may be enforced by either the city of the County or both. The Applicant bears the burden of establishing to the County Clerk that no city subdivision approval is required.
- 2.10 **Wastewater and Development Permits.** The County shall issue no On-Site Sewage Facility permit on any parcel of land subdivided after February 10, 2000 unless that property has been properly subdivided in accordance with these Regulations and the Liberty County On-Site Sewage Facility Rules or is exempt from platting under state law.
- 2.11 **Construction Inspection Fee.** Prior to approval of the final plat the developer shall pay a construction inspection fee to Liberty County to cover the cost for the County to perform or have performed inspection services adequate to confirm the subdivision improvements are constructed to Liberty County Standards and the approved plans and specifications for the development. This fee shall be established during the review process for approval of the final plat. Minimum construction inspection fee shall be \$500.00.
- 2.12 **Submittal to Other Jurisdictions.** A copy of the Preliminary Plat with appropriate supporting information will be submitted to all jurisdictions and/or utility providers in addition to Liberty County that have jurisdiction over or that will provide water, sewer, or electric service to the subdivision. A letter indicating approval of the subdivision components of direct concern to these entities will be required prior to approval of the Preliminary Plat by Liberty County Commissioners.

**SECTION 3
EXEMPTIONS**

3.1 **Exempted Subdivisions.** The following Subdivision shall be exempt from Section 2.2 and shall not be required to obtain plat approval under these Regulations:

3.1.1 The land is used primarily for agricultural use, as defined by Section 1-d, Article VII, Texas Constitution, or for farm, ranch, wildlife management, or timber production use within the meaning of Section 1-d-1, Article VIII, Texas Constitution and not laying out a street.

3.1.2 The land is being divided among close family members and no more than four lots are being created for these family members. To qualify for the exemption, all of these lots must have adequate existing road frontage, with no new streets, parks, alleys or any other parts of the tract intended to be dedicated to public use. Generally, to be considered having adequate road frontage to guarantee safe driveway spacing, sight distance, and reasonable maintenance of road and drainage areas, each Lot must have a least 50 feet (50') of frontage. The County relies on the state's definition of what is close family under the exemption clause provided in the state law that governs county subdivision authority. Thus, close family is defined as a family member related within the third degree of consanguinity or affinity, in accordance with the Government Code, Chapter 573.023 (c); an individual's relatives within the third degree by consanguinity are the individual's:

- (a) Parent or child (relatives in the first degree);
- (b) Brother, sister, grandparent, or grandchild (relatives in the second degree); and
- (c) Great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

In accordance with the Government Code, Chapter 573.025 (b), an individual's relatives within the third degree by affinity are the individual's:

- (a) Anyone related by consanguinity to the individual's spouse in one of the ways named in Chapter 573.023 (c); and
- (b) The spouse of anyone related to the individual by consanguinity in one of the ways named on Chapter 573.023 (c).

3.1.3 Any division of land in which all the Lots of the Subdivisions are more than ten acres in area, and the Applicant does not lay out streets, alleys, squares, parks, or

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other parts of the tract for public or private use. To qualify for the exemption, each Lot must have direct physical access onto an existing public street or road, with adequate minimum Lot frontage to guarantee safe driveway spacing, sight distance, and reasonable maintenance of road and drainage areas. This minimum Lot frontage is generally considered to be at least 50 linear feet.

- 3.1.4 Any division of land in which all the Lots of the Subdivision are sold to Veterans through the Veteran's Land Board Association; and no streets, alleys, squares, parks, or other parts of the tract are intended for public or private use. To qualify, each Lot must have direct physical access onto an existing public street or road, with adequate minimum Lot frontage to guarantee safe driveway spacing, sight distance, and reasonable maintenance of road and drainage areas. This minimum Lot frontage shall conform to minimum driveway spacing as set out by Table 2.5.1 Summary of Liberty County Road Standards.
- 3.1.5 The State of Texas or any state agency, board, or commission of Land owned by the permanent school fund or any other dedicated funds of the state shall be exempt unless laying 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.
- 3.1.6 The owner of the tract of land is a political subdivision of the state, the land is situated in a floodplain, and the Lots are sold to adjoining landowners.
- 3.1.7 The Applicant is creating two tracts, one to be retained by the owner and the other to be transferred to another person who will further subdivide that tract subject to the plat approval requirements of these Regulations. To qualify for this exemption, the Applicant may not lay out streets, alleys, squares, parks or other parts of the tract intended to be for the use of the public or the common use of Lot or tract owners.
- 3.1.8 The Applicant does not 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, and all parts are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.

**SECTION 4
PRELIMINARY PLAT**

4.1 **Information.** The Preliminary Plat Checklist is available at the County Permit Department's office. Before an application for Preliminary Plat is considered for filing, the Applicant must return all items summarized on the checklist to the Permit Department and have the application dated by the Clerk. A mylar and two (2) black or blue line copies of the plat is required for submission as specified in the Preliminary Plat Checklist. The Commissioner's Court will act on the Preliminary Plat within sixty-days (60) from the date the complete application is filed with the Clerk. The County will notify applicants in writing within ten (10) business days of the filing if the Checklist application is flawed or incomplete, in which case applicants must file a new, completed Checklist. Proposed Preliminary Plats shall include the following:

4.1.1 General Information.

- (a) Name of the proposed Subdivision, which shall not be the same or substantially similar to any other Subdivision within the County unless the Subdivision is an extension of a pre-existing, contiguous Subdivision.
- (b) The boundary lines and total acreage of the Original Tract and the Subdivision.
- (c) A note stating the total number of Lots within the proposed Subdivision and the minimum size of Lots.
- (d) Lot number and size, block numbers, building set back lines.
 - 1. Lot size – minimum fifty foot width, 130 foot depth.
 - 2. Minimum twenty-five foot set back line.
 - 3. Subdivision with curb and gutter streets with storm sewers may use zero lot line design with forty-five (45) foot width lots and one hundred ten (110) foot depth.
 - 4. Length of block shall not exceed 1400 feet.
 - 5. Acreage and dimensions of each Lot, accurate to one-hundredth of an acre. When calculating the acreage of any Lot the gross square footage within the Lot shall be used, provided any area within a public right of way shall be excluded.
- (e) Alleys utility easements and drainage easements.
 - 1. Minimum alley width shall be twenty (20) feet.

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2. Minimum utility easement fifteen (15) feet.
 3. Drainage easements shall be of sufficient width to accommodate the size ditch necessary to carry the design capacity of the ditch, plus adequate width for access and maintenance.
- (f) Existing contours shall be shown at five-foot, two-foot, or one-foot intervals according to Section 2.3.5 (g) of the Road & Drainage Standards.
 - (g) The location and acreage of any proposed parks, squares, greenbelts, schools or other public use facilities.
 - (h) Names of adjoining Subdivisions or owners of property contiguous to the proposed Subdivision.
 - (i) Name, address and phone number of the Surveyor and/or Engineer.
 - (j) Name, address and phone number of the Owner, or Applicant if not the Owner.
 - (k) A vicinity map showing general location of Subdivision in relation to major roads, towns, cities or topographic features.
 - (l) North arrow, scale and date.
 - (m) Boundary lines of any incorporated city and the limit of the extraterritorial jurisdiction of any city.
 - (n) The location of school district boundaries and a statement clearly indicating in which school district(s) the Subdivision is located. In the event any Lot lies within more than one school district, then the plat shall clearly state the number of acres within the Lot that lies within each school district.
 - (o) The location of all taxing district boundaries and a statement clearly indicating in which district(s) the subdivision is located. In the event any Lot lies within more than one taxing district, then the plat shall clearly state the number of acres within the Lot that lies within each taxing district.
 - (p) Each sheet must be numbered consecutively, sheet x of y.
 - (q) Note the usage of each Lot as single family or other.

4.1.2 Floodplain and Drainage Information.

- (a) Elevation contours at no less detail than one-foot (1') intervals, based on NGVD 83 datum.
- (b) All Special Flood Hazard Areas identified by the most current Flood Insurance Rate Maps published by the Federal Emergency Management Agency.
- (c) For each Lot containing the 100-year floodplain, sufficient additional contours to identify and delineate the 100-year floodplain and regulatory floodway, if any. If base flood elevations have not already been established, a Registered Professional Engineer shall establish the elevations.
- (d) For each Lot containing the 100-year floodplain, a finished floor elevation a minimum of one-foot (1') above the 100 Year Flood Plain for the Finished Floor Elevation must be identified on the plat. Development less than one foot (1') above the 100 Year Flood Plain shall be prohibited.
- (e) For each Subdivision containing the 100-year floodplain, at least one benchmark showing NGVD 83 datum elevation, as well as latitude and longitude.
- (f) A drainage plan depicting the anticipated flow of all drainage onto and from the Subdivision and showing all major drainage and topographic features on or adjacent to the property including all water courses, 100-year floodplain boundaries, floodway boundaries, ravines, swales, ditches, bridges, and culverts.
- (g) The location and size of all proposed drainage structures, including on-site retention and/or detention ponds and easements and the impact of Lot and street layouts on drainage.
- (h) Depiction of all streams, rivers, ponds, lakes, and other surface water features.

4.1.3 Street and Right of Way Information

- (a) Street Width – Open Ditches
 - 1. Minimum right of way width of main or arterial streets shall be 75 feet.
 - 2. Minimum right of way width of collector or lateral roads or streets shall be 60 feet.

3. Minimum right of way width of single resident streets not exceeding six hundred (600) feet in length shall be sixty (60) feet wit cul-de-sac with right of way of 50 foot radius.

(b) Streets Widths – Curb and Gutter

1. The minimum right of way width of arterial streets shall be seventy-five (75) feet.
2. The minimum right of way width of collector type streets shall be sixty (60) feet.
3. The minimum right of way width of single family residential type streets shall be sixty (60) feet and not exceed six hundred (600) feet in length with cul-de-sac with sixty (60) foot radius.

- (c) A minimum 10 foot wide utility easement shall be provided adjoining each side of every street R.O.W.

- (d) Location, length and right of way widths of all proposed streets and a depiction of how all proposed streets shall connect with previously dedicated, platted or planned streets within the vicinity of the Subdivision.

- (e) Location, size and proposed uses of all proposed access easements, if any.

- (f) Proposed location of all depth gauges at all road crossings where the 100-year frequency flow or lesser frequency storm event is anticipated to flow over the road surface and any proposed gates or warning devices. Note: the Commissioners Court may require gates or warning devices at such locations.

4.1.4 Water, Wastewater and Utilities Information

- (a) Designation of the entity supplying each of the following: electric, phone and gas utilities to Lots, or a statement that such utility is not available.
- (b) The location of all proposed utility easements and/or infrastructure, including water well sanitary easements, if applicable.
- (c) Designation of the water and sewer utility provider for the Subdivision, and the source of the water intended to serve each Lot within the subdivided area.

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- (d) Certification that all Lots have been designed in compliance with the Rules of Liberty County for On-Site Sewage Facilities, together with a Facility Planning Report for On-site Sewage as provided for in Chapter 285 in the Texas Health and Safety Code.
- 4.2 **Street Design.** A proposed Preliminary Plat shall contain a written certification from a Registered Professional Engineer that the location and dimensions of streets as set forth and laid out on the Preliminary Plat are in accordance with these Regulations.
- 4.3 **Drainage.** A proposed Preliminary Plat shall contain a written certification from a Registered Professional Engineer stating that the location and approximate sizes of the drainage structure(s) set forth in the Preliminary Plat are in accordance with the County's Road and Drainage Specifications.
- 4.4 **On-Site Sewage Rules.** A proposed Preliminary Plat shall satisfy the requirements of the Rules of Liberty County for On-Site Sewage Systems.
- 4.5 **Approval of Preliminary Plat.** The Commissioners Court shall approve a Preliminary Plat if it satisfies each of the requirements set forth in Section 4 and all other provisions of these Regulations.
- 4.6 **No Conveyance of Lots.** Conveyance of Lots depicted on a Preliminary Plat shall not be permitted until the Final Plat has been approved and the Record Plat filed by the County Clerk except as provided by Property Code 212.002(d).
- 4.7 **Expiration.** Approval of a Preliminary Plat shall expire and be of no further force and effect in the event a Final Plat for a portion of the Subdivision is not filed within twelve (12) months following the date of the Commissioners Court approval of the Preliminary Plat.

**SECTION 5
FINAL PLAT**

5.0 **Application Fee** Upon filing the Final Plat Application, the Applicant shall pay a plat application fee in the amount of \$350 plus \$25 per Lot for the first 100 Lots and \$15 per Lot for each Lot over 100 Lots;

5.1 **Information.** The Final Plat Checklist is available at the County Permit Department's office. Before an application for Final Plat is considered for filing, the Applicant must return all items summarized on the checklist to the Permit Department Office and have the application dated by the Permit Department. A mylar and six (6) copies of the final plat is required for submission as specified in the Final Plat Checklist. The Commissioners Court will act on the Final Plat within sixty (60) days from the date the completed checklist is filed with the Permit Department. The County will notify applicants in writing within ten (10) business days of the filing if the Checklist application is flawed or incomplete, in which case applicants must file a new, completed Final Plat Checklist. Proposed Final Plats shall comply with the requirements of the approved Preliminary Plat and shall include the following:

5.1.1 General Information

- (a) Bearings and dimensions of the boundary of the Subdivision and all Lots, streets, parks, greenbelts, easements, or reserves. Dimensions shall be shown to the nearest one-hundredth of a foot (0.01') and bearings shall be shown to the nearest one second of angle (01"). The length of the radius and arc length of all curves, with bearings and distances of all chords, shall be clearly indicated.
- (b) Description of monumentation used to mark all boundary, Lot and block corners, and all points of curvature and tangency on street rights-of-way.
- (c) Location of original survey line. The Subdivision shall be located with respect to an original corner of the original survey of which it is part.
- (d) Lot and block numbers for each Lot.
- (e) Acreage of all Lots, calculated to the nearest one-hundredth of an acre.
- (f) Each sheet must be numbered consecutively, sheet x of y.
- (g) A vicinity map showing general location of Subdivision in relation to major roads, towns, cities or topographic features.

5.1.2 Flood Plain and Drainage Information

- (a) For Subdivisions containing the 100-year floodplain, one benchmark and finished floor elevations of each Lot in accordance with the Liberty County Flood Damage Prevention Ordinance.
- (b) For each Subdivision containing the 100-year floodplain, at least one monument containing latitude and longitude and NVGD 83 datum coordinates.
- (c) For each Lot containing the 100-year floodplain, a minimum one-foot (1') above the floodplain for the Finished Floor Elevation must be provided for on the plat, and development less than one foot (1') above the Finished Floor Elevation shall be prohibited.

5.1.3 Street and Right of Way Information

- (a) Total length of all streets, to the nearest one-tenth mile.
- (b) Total area of all right-of-way to be dedicated to the public to the nearest hundredth of an acre.
- (c) The minimum driveway culvert size for each Lot, as determined in accordance with good engineering and construction practices.

5.1.4 Water, Wastewater and Utilities Information

- (a) For each Lot not served by an approved public sewer systems, the location of a viable percolation area for septic tanks and proposed well sites, if any.
- (b) The following statement should appear prominently on the Final Plat: "No structure in this Subdivision shall be occupied until connected to an individual water supply, state-approved water system, or engineered rain water collection system."
- (c) The following statement shall appear prominently on the Final Plat: "No structure in this Subdivision shall be occupied until connected to a public sewer system or to an on-site sewage facility that has been approved and permitted by Liberty County."

5.1.5 Other Plat Notes and Certification as referred to in Appendix 1.

5.2 **Additional Requirements for Streets.**

5.2.1 Three (3) blue line or black line copies of the Construction Plans for all streets and drainage improvements within the Subdivision and signage plans for all streets in accordance with the Liberty County Road and Drainage Standards and Specifications shall be submitted with the final plat for review and approval.

5.2.2 A certification under the seal of a Texas Registered Professional Engineer that the Construction Plans and pavement designs are in compliance with these Regulations.

5.2.3 The total estimated construction cost of all of the streets and drainage improvements proposed for construction within the Subdivision.

5.2.4 Streets may be constructed after recording the Record Plat. Construction and Maintenance Fiscal Security to be posted per the requirements of Section 7.

5.3 **Standard for Approval.** The Commissioners Court shall approve a Final Plat for recording as the Record Plat if it satisfies each of the Requirements set forth in these Regulations.

5.4 **Construction Plans.** Upon approval of the Final Plat, one (1) mylar each of the Drainage Plan and the Construction Plans along with two (2) black or blue line sets of each shall be submitted to Liberty County.

5.5 **Approval of a Final Plat.** Approval of a Final Plat shall not authorize any construction or Development activities but merely authorize the Applicant to proceed with the Record Plat.

5.6 **Record Plat.** Upon approval of the Final Plat by Commissioners Court, the Applicant shall prepare one (1) mylar and five (5) black or blue line copies of the Record Plat for recordation in the Liberty County Plat Records in accordance with these Regulations. The Record Plat must be recorded within twelve (12) months of the approval of the Final Plat.

**SECTION 6
STREET DESIGN AND CONSTRUCTION**

- 6.1 **Permitted Streets.** All streets shall be constructed in accordance with these Regulations and the accompanying Road and Drainage Specifications. Streets shall be paved and dedicated to the public in all Subdivisions. Private streets are not allowed unless expressly provided by a grant of variance from the Commissioners Court.
- 6.2 **Dedication to Public** Any dedication to the public shall be accomplished either by deed conveying a fee simple interest or by a dedication on the plat conveying a perpetual right of way easement in the property to the Public for public use. No dedication shall be effective until the Record Plat is recorded. In no event shall any private Lot extend into a dedicated roadway.
- 6.3 **Design of Public Improvements.** All improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of utilities, drainage and streets and to permit continuity of improvements to adjacent properties. The classification and construction standards for all streets shall be determined according to the Road and Drainage Specifications for Liberty County.
- 6.4 **Flag Lots.** As provided for in Chapter 251 of the Texas Transportation Code and in other state laws, the County has the general authority and responsibility for road and drainage maintenance and safety. Minimum driveway spacing is one critical component of both public safety and effective road and drainage maintenance where County equipment must operate in barrow ditches or along rural road shoulders. The Texas Association of Counties, working with professional engineers and planners, has reported on the problems created by Flag Lots in many counties in Texas – problems related to inadequate road and driveway access, shoulder maintenance, drainage maintenance, addressing, the delivery of emergency services, school bus routing, and the preservation of adequate sight distance for public safety. Therefore, Flag Lots shall generally not be permitted, except if approved by the Commissioners Court as consistent with the intent and spirit of these Regulations. The Precinct Commissioner or Designated Agent shall advise the Commissioners Court if a proposed Lot constitutes a “Flag Lot” and the Commissioners Court shall, in reviewing all the circumstances, make the final determination as part of the Subdivision process.
- 6.5 **Residential Driveways.** As noted in Section 6.4 above, adequate Lot and driveway spacing is important to road maintenance and safety. In order to ensure public safety on roads with more traffic and higher speeds, and to further minimize – on existing County roads – creation of Flag Lots that might pose a threat to the public safety and welfare, the County imposes minimum lot frontage requirements to ensure adequate driveway spacing for various types of County roads. For the purposes of this Section only, any County road that is not a Neighborhood Subdivision Street is considered a County Feeder Road. Neighborhood Subdivision Streets under this section are considered to be roads created as part of the Subdivision process and intended to service only those Lots within a particular Subdivision, or serving other subdivisions such that the road does not provide service to

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more than 100 Lots. A Neighborhood Subdivision Street must connect to a state or federal highway, or to a county Feeder Road. A road which connects two Subdivisions of greater than 100 Lots, or which provides throughway access to another community or area in the County is not considered a Neighborhood Subdivision Street (and thus is considered a County Feeder Road).

6.5.1 Minimum Lot Frontage on County Feeder Road (and recommended frontage for all state roads in the County) – 150 feet. This is a general standard; however, the Commissioners Court may allow more closely spaced Lots, and thus more densely packed driveways, if an Applicant demonstrates to the Commissioners Court that its Subdivision layout is prepared according to generally accepted professional planning and engineering principles, with adequate provisions for safety and infrastructure development. An Applicant requesting minimum Lot frontages of less than 150-foot standard on a County Feeder must demonstrate to the Commissioners Court how his or her application meets the spirit of Section 6.4, the prohibition on Flag Lots.

6.5.2 Minimum Lot Frontage on Neighborhood Subdivision Streets – 50 feet, or 25 feet at the bulb of a cul-de-sac.

6.6 **Permission Required for Construction in Right of Way.** No driveway or utility construction, mail boxes, landscaping or any other encroachment into public right-of-way or easements shall be allowed without first obtaining permission from the County.

SECTION 7

ACCEPTANCE OF ROAD MAINTENANCE AND CONSTRUCTION SECURITY

- 7.1 **Applicant's Maintenance Responsibility.** The Applicant shall remain responsible for all maintenance and repair of street and drainage facilities within a subdivision for a minimum of two years after completion of construction to Liberty County standards. The Applicant shall post with the County a maintenance security in the form of cash, surety bond or irrevocable letter of credit to secure the proper maintenance of the roads prior to County acceptance for maintenance thereof in an amount equal to 20% of the construction costs of the streets for a term of two (2) years following agreement by the County that construction of the improvements required for the subdivision is complete and the improvements are in accordance with the plans and specifications approved for the subdivision. Acceptance of maintenance responsibilities by Liberty County is further described in subsection 7.3. The decision of the Commissioners Court to approve a Final Plat, the recording of the Record Plat, or dedication of the right of way for a street shall not be deemed to constitute acceptance of the streets for maintenance.
- 7.2 **Construction Security.** This section applies if the Applicant desires to file a Final Plat prior to completion of construction of all water, wastewater, streets, and drainage facilities and inspection by the Precinct Commissioner or Designated Agent. The Applicant shall continue to be responsible for all other requirements set forth in Section 7.1 above.
- 7.2.1 With permission of the Commissioners Court, the Applicant shall post a Construction Security in the form of cash, surety bond, or irrevocable letter of credit in an amount equal to 100% of the estimated construction costs of the streets and roads. The Commissioners Court must individually approve each application to post such Construction Security and the Construction Security shall remain in effect until the streets and roads and all associated drainage improvements have been accepted by the County for maintenance at which time the Applicant shall post a Maintenance Security, pursuant to Section 7.1 above. Sample Construction Security forms are provided in Appendix 2. The County shall be given a sixty day (60) Notice of Cancellation prior to the termination or end of the Security coverage period.
- 7.2.2 Before release of the Construction Security, the Precinct Commissioner or Designated Agent shall inspect the water, wastewater, roads, and drainage facilities and the Applicant shall remedy all deficiencies. If the deficiencies are not properly remedied, the County shall draw on the security to make the necessary repairs.
- 7.2.3 Collection on security and the prosecution of construction to complete the improvements to the extent possible with resulting funds is not acceptance of the improvements for maintenance. The County is not a Subdivision developer and, if it undertakes the performance of such construction through a third party contractor, the County is acting as a third party trustee for the public and the

contractor shall be liable for all costs incurred by the county in excess of the surety amount, if any.

- 7.2.4 The Applicant has delivered a letter to the County agreeing to perform the testing and inspections specified in 7.3.3.

7.2.5 Acceptable Forms of Security

- (a) Bonds. A bond that is submitted in compliance with subsection (a) of this section 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 roads and drainage facilities, 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 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;
 - (B) authorization to issue bonds in the amount required by the 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 public roads, drainage facilities, water and wastewater facilities meeting the criteria established by Liberty County 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 commissioners court.
- (b) Letter of credit. A letter of credit that is submitted in compliance with subsection (a) of this section 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 10 or better and primary capital must be at least 6.0% of total assets; and
 - (iii) total assets must be at least \$25 million.
 - (B) Savings and loan association qualifications:
 - (i) must be federally insured;
 - (ii) tangible capital must be at least 1.5% of total assets and total assets must be greater than \$25 million or tangible capital must be at least 3.0% of total assets if total assets are less than \$25 million; and
 - (iii) Sheshunoff rating must be 30 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; and
 - (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 7.0% of total assets; and
 - (iii) total assets must be at least \$75 million.
 - (B) Savings and loan association qualifications:
 - (i) must be federally insured;
 - (ii) tangible capital must be at least 3.0% of total assets and total assets must be greater than \$75 million, or tangible capital must be at least 5.0% of total assets if total assets are less than \$75 million; and
 - (iii) Sheshunoff rating must be 30 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; and
 - (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 attached in Appendix 2B. Figure: 31 TAC Section 364.54(c)(3)
- (4) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Division 2 of this subchapter and upon construction of facilities within the time stated on the plat, or

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- on the document attached to the plat for the subdivision, or within any extension of time granted by the commissioners court.
- (c) 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.
 - (d) Alternative to county accepting a financial guarantee. The county may approve a final plat under this section without receiving a financial guarantee in the name of the county if:
 - (1) the property being subdivided lies wholly within the jurisdiction of a municipality;
 - (2) the property being subdivided lies wholly within the extra-territorial jurisdiction of a municipality; and
 - (3) the municipality has executed an interlocal agreement with the county that imposes the obligation on the municipality to:
 - (A) accept the bonds, letters of credit, or other financial guarantees, that meet the requirements of this section;
 - (B) execute the construction agreement with the subdivider; and
 - (C) assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

7.3 **County Acceptance of Maintenance.** The County shall accept a road or street for maintenance when the conditions stipulated herein have been satisfied:

- (a) The roadway subbase, base and wearing surface treatment(s) have been installed and item 7.3.5 and 7.3.5 (a) requirements have been met; or
 - (b) The roadway subbase and base were previously constructed, the surface of the base material was recently refinished and the final wearing surface treatment(s) have been recently installed and item 7.3.6 and 7.3.6 (a) requirements have been met.
- 7.3.1 The street, drainage structures and right of way has been constructed or completed in accordance with these Regulations and the County Road and Drainage Specifications, the Record Plat for the road or street has been recorded and the associated right of way has been dedicated to the public pursuant to these Regulations;
- 7.3.2 The Applicant has submitted a written request to the County. If the Applicant is no longer available, i.e. has ceased to transact any business or, in the case of an individual, has died, any person owning property with frontage or access onto the street may submit the written request.
- 7.3.3 The Liberty County Precinct Commissioner or Designated Agent has approved all required inspections and tests at the completion of each phase of construction of the street; including plasticity index for the sub-base and base, tests for compacted

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density, depth of base and distribution of asphalt. It is the responsibility of the Applicant to coordinate all inspections and laboratory tests with the Liberty County Precinct Commissioner or Designated Agent and not to proceed with construction of the next phase of work until proper inspections and tests have been obtained. All laboratory tests, test holes, and required repairs shall be at the expense of the Applicant. In no event will any base be placed on the street until the Precinct Commissioner or Designated Agent has approved the subgrade.

7.3.4 The Liberty County Precinct Commissioner or Designated Agent has inspected the street no earlier than thirty (30) days prior to the acceptance for maintenance by Commissioners Court and has submitted to the Commissioners Court an Inspection Report stating that:

- (a) The street, in its current condition and with no repairs, upgrades or improvements, appears to be in compliance with the Regulations and all other guidelines in effect at the time of the inspection.
- (b) All requirements regarding construction of drainage structures and driveway drain pipes have been satisfied; and
- (c) The Precinct Commissioner or Designated Agent recommends acceptance of the street by the Commissioner Court.

7.3.5 The Applicant has posted with the County a maintenance security in the form of cash, surety bond or irrevocable letter of credit to secure the proper maintenance of the roads prior to County acceptance thereof in an amount equal to 20% of the construction costs of the streets for a term of two (2) years following agreement by the County that construction of the improvements required for the subdivision is complete and the improvements are in accordance with the plans and specifications approved for the subdivision. Before release of the Maintenance Security, the Precinct Commissioner or Designated Agent shall again inspect the roads or streets and the Applicant shall remedy all deficiencies prior to release of the Maintenance Security. If the deficiencies are not promptly remedied, the County shall make the repairs or cause the repairs to be made by private contractor(s) and draw on the Maintenance Security for payment. Sample Maintenance Security forms are provided in the Appendix 2.

- (a) Warranty: The Paving Contractor shall provide a written warranty, addressed to the County of Liberty and directed to the Precinct Commissioner following the installation of the roadway wearing surface. Said warranty shall generally cover all failures due to defects in materials, workmanship, or improper installation methods and shall extend for a period of one (1) year from the date of acceptance by the Precinct Commissioner. Said warranty shall specifically cover the delamination of the wearing courses from the flexible base due to improper installation.

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Liberty County shall direct the repairs of the deficiencies during the warranty period. Facilities are public facilities and shall not be altered without the permission of the County. Liberty County shall perform inspections of the facilities, which are in the warranty period once each quarter. The developer or his designated representative shall be offered the opportunity to accompany the County on each quarterly inspection. A written record of any deficiencies shall be provided to the developer. Repair of the deficiencies shall be as directed by the County.

Said warranty shall not cover failures due to excessive traffic loads or structural failures of the flexible base or subgrade.

- 7.3.6 The Applicant has posted with the County a maintenance security in the form of cash, surety bond or irrevocable letter of credit to secure the proper maintenance of the roads prior to County acceptance thereof in an amount equal to 20% of the construction work completed, and 100% of construction work not completed of the roads for a term of two (2) years following agreement by the County that construction of the improvements required for the subdivision is complete and the improvements are in accordance with the plans and specifications approved for the subdivision. Before release of the Maintenance Security, the Precinct Commissioner or Designated Agent shall again inspect the roads or streets and the Applicant shall remedy all deficiencies, prepared the surface of the base materials and shall have installed the surface treatment prior to release of the Maintenance Security. If the deficiencies are not promptly remedied, the County shall make the repairs, install the surface treatment, and draw on the Maintenance Security for payment. Sample Maintenance Security forms are provided in the Appendix 2.

- (a) Warranty: The Paving Contractor shall provide a written warranty, addressed to the County of Liberty and directed to the Precinct Commissioner following the installation of the roadway wearing surface. Said warranty shall generally cover all failures due to defects in materials, workmanship, or improper installation methods and shall extend for a period of one (1) year from the date of acceptance by the Precinct Commissioner. Said warranty shall specifically cover the delamination of the wearing courses from the flexible base due to improper installation. Said warranty shall not cover failures due to excess traffic loads or structural failures of the flexible base or subgrade.

Liberty County shall direct the repairs of the deficiencies during the warranty period. Facilities are public facilities and shall not be altered without the permission of the County. Liberty County shall perform inspections of the facilities, which are in the warranty period once each quarter. The developer or his designated representative shall be offered the opportunity to accompany the County on each quarterly inspection. A

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written record of any deficiencies shall be provided to the developer. Repair of the deficiencies shall be as directed by the County.

7.4 **Installation of Utility Lines.** All utility lines planned for construction under a paved street shall be installed before the street is paved. All utility lines installed under an existing paved street shall be bored to a point at least four feet beyond the edge of pavement and must be approved in advance by the Commissioners Court.

7.4.1 Because the location of utility lines in County rights-of-way or beneath public streets may affect future road construction, re-construction, and on-going maintenance, the County reserves the right to dictate the reasonable placement of utility lines where those lines encroach upon County rights-of-way or other County property.

- (a) Applicants shall consult with the Precinct Commissioner or his/her Designated Agent, who shall determine on a case-by-case basis whether it is appropriate to allow utility placement running parallel beneath a Permitted Street or in a County right-of-way.
- (b) If Applicant disagrees with the ruling of the Precinct Commissioner or his/her Designated Agent, Applicant may appeal to the Commissioners Court, which shall make a final ruling by resolution.
- (c) As part of the approval process, the Applicant shall make certain that all relevant plat notes and drawings for Final Plat submittal, as well as any construction documents submitted to the County, shall conform to the utility placement dictated by the County.
- (d) When allowed, construction on County right-of-way or easements must be on the back slope of the ditch with the following minimum cover:
 - Telephone line – 18 inches.
 - Gas line – 24 inches.
 - Electric line – 48 inches.
 - Television cable – 18 inches.
 - Water line – 24 inches.
- (e) The Precinct Commissioner should be notified 48 hours before utility work is commenced in a County right-of-way or easement.

**SECTION 8
WATER AND WASTEWATER STANDARDS**

8.0 Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Drinking water - All water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.
- (2) Engineer - A person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act.
- (3) Non-public water system - Any water system supplying water for domestic purposes which is not a public water system.
- (4) OSSF - On-site sewage facilities as that term is defined in rules and/or regulations adopted by TCEQ, including, but not limited to, 30 TAC Chapter 285.
- (5) Platted - Recorded with the county in an official plat record.
- (6) Public water system - A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 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 15 connections or less than 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 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.
- (7) Purchaser - Shall include purchasers under executory contracts for conveyance of real property.
- (8) Retail public utility - Any entity meeting the definition of a retail public utility as defined in Water Code Section, 13.002.

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- (9) 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.
- (10) Subdivider - Any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.
- (11) TAC - Texas Administrative Code, as compiled by the Texas Secretary of State.
- (12) TCEQ - Texas Commission on Environmental Quality.
- (13) 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.

MINIMUM STANDARDS

Texas Administrative Code Sections 364.31-364.37

8.1. Scope of Standards. The establishment of a residential development with two or more lots of five acres or less where the water supply and sewer services do not meet the minimum standards of this division is prohibited. A subdivision with lots of five acres or less is presumed to be a residential development unless the land is restricted to nonresidential use on the final plat and all deeds and contracts for deeds.

8.2 Water Facilities Development.

(a) Public water systems.

(1) Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility in substantially the form attached in Appendix 1A. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat.

(2) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the TCEQ. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC Sections 290.38–290.51 and Sections 290.101-290.120. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of 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, the subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

(b) Non-public water systems. Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, a test well or wells located so as to be representative of the quantity and 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 subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity of the available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality

required for community water systems as set forth in 30 TAC Sections 290.103, 290.105, 290.106, and 290.110 either.

- (1) without any treatment to the water; or
 - (2) with treatment by an identified and commercially available water treatment system.
- (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.

8.3 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 TCEQ in accordance with 30 TAC Chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 317 from the TCEQ.
 - (2) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement in substantially the form attached in Appendix 1B with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is available to each lot upon completion of construction of the wastewater facilities described on the final plat. Engineering plans for the proposed wastewater collection lines must comply with 30 TAC Chapter 317.
- (b) On-site sewerage facilities.
- (1) On-site facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of no greater than 5,000 gallons per day must comply with 30 TAC Chapter 285.
 - (2) Proposals for sewerage facilities for the disposal of sewage in the amount of 5,000 gallons per day or greater must comply with 30 TAC Chapter 317.
 - (3) The TCEQ 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 the Texas Health and Safety Code, Chapter 366 and rules in 30 TAC Chapter 285, and in particular Sections 285.4, 285.5, and 285.30-285.39. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC Section 285.3(b), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.
 - (4) Subdividers who propose to dispose of wastewater utilizing on-site sewage disposal systems must provide Liberty County with all necessary information to assure all lots in the subdivision will meet the State and County requirements for an OSSF. After Liberty County agrees all lots will meet requirements for an OSSF, no financial surety will be required for wastewater facilities.

8.4 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 30 TAC Chapter 210 promulgated and administered by the TCEQ.
- (b) On-site sewerage facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 30 TAC Chapter 285.

8.5 Sludge Disposal. The disposal of sludge from water treatment and sewerage facilities shall meet the criteria of 30 TAC Chapter 312 and Chapter 317.

8.6 Setbacks. In areas that lack a nationally recognized fire code as listed in Local Government Code, Section 235.002(b)(2) and lack water lines sized for fire protection, setbacks from roads and right-of-ways shall be a minimum of 10 feet, setbacks from adjacent property lines shall be a minimum of five feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies. Setback lines required elsewhere in the orders or rules of the county shall control to the extent greater setbacks are therein required.

8.7 Number of Dwellings Per Lot. No more than one single family detached dwelling shall be located on each lot. 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. 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.

PLAT APPROVAL

Texas Administrative Code Sections 364.51 – 354.57

8.8 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. Every plat creating two or more lots of five acres or less for residential use shall comply with the standards of Section 8.0 through 8.7 and the requirements of Sections 8.8 through 8.14 of this subchapter.

8.9 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 each lot of 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, the schedule shall include the start dates and completion dates.

(1) Public water systems.

- (A) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 3A. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project which may include in addition to the county the TCEQ 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.
- (B) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the TCEQ and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities 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, either through acquisition or wholesale water supply

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agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

- (2) Non-public water systems. Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with Section 8.9 of this title. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well does not meet the water quality standards as set forth without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the county at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed subdivision over the next 30 years. Such statement may be based on information available from the Texas Water Development Board's Office of Planning. The description of the required sanitary control easement shall be included.
- (3) Organized sewerage facilities.
 - (A) Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 3B. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the TCEQ 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.
 - (B) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the TCEQ. 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 TCEQ and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.
- (4) On-site sewerage facilities. Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC Section 285.4(c), including the site evaluation described by 30 TAC Section 285.30 and all other information required by the county's OSSF requirements.

8.10 **Additional Information.** The 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.

8.11 Financial Guarantees for Improvements.

- (a) Applicability. If an adequate public or non-public water system or sewerage facility is not available from a retail public utility, or are not constructed by the subdivider, to serve lots intended for residential purposes of 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 in substantially the form attached in Appendix 2 secured by a bond, irrevocable letter of credit, or other alternative financial guarantee such as a cash deposit which meet the requirements set forth below.

8.12 Review and Approval of Final Plats.

- (a) Scope of review. The county will review the final plat to determine whether it meets the required standards.
- (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 sewerage facilities identified in the final plat to the appropriate retail public utility responsible for operation and maintenance of the facilities; and
 - (2) provided evidence that the water facilities and sewerage facilities have been constructed and installed in accordance with the criteria established within these rules and the approvals from TCEQ 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 sewerage facilities (other than for OSSF permits on individual lots within the proposed subdivision) 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 Division 3 of this subchapter.

8.13 Time Extensions for Providing Facilities.

- (a) Reasonableness. The commissioners court 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:
 - (1) any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with Section 7.25(b)(4) of these standards are submitted which will be effective for the period of the extension; and
 - (2) 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 Division 2 of this subchapter.

8.14 Criteria for Subdivisions that Occurred Prior to September 1, 1989.

- (a) Authority and scope. This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before September 1, 1989 and have not been platted or recorded. This section is in addition to the authority of the county to grant a delay or variance pursuant to Local Government Code Section 232.043 or a rule of the county adopted pursuant to such provision.
- (b) Purpose. It is the purpose of this section to promote the public health of the county residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the jurisdiction of this county, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the county.
- (c) Required plat. In the event that the owner of tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to 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, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the commissioners court, and filed, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the commissioners court as provided in this section in lieu of the filing of a plat of the subdivision.
- (d) Special criteria. The commissioners court may approve the plat of a residential lot which does not comply with the provisions of 4.1.1(d)(2) of this title (Setbacks), Section 8.7 of this title (Number of Dwellings per Lot), Section 8.9 (Final Engineering Report), and Section 7 of this title (Financial Guarantees for Improvements) as applied to an individual subdivided lot if such approval is in harmony with the general purpose and intent of these rules so that the public health, safety, and welfare may be secured and substantial justice done.
 - (1) Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.
 - (2) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the chapter, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the commissioners court may request to support the application, including:
 - (A) a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;
 - (B) the name and address of the original subdivider or the subdivider's authorized agent, if known;
 - (C) a survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and
 - (D) a deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.

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- (3) Approval of plats of individual lots shall be granted subject to the limitations of state law, and based on written findings by the commissioners court that:
 - (A) the lot for which approval is requested is within a tract that was subdivided prior to September 1, 1989, and is not owned by the original subdivider;
 - (B) a plat was required for the subdivision, but has not been filed with the county by the subdivider legally obligated to file it;
 - (C) an existing, currently occupied residential dwelling is located on the lot;
 - (D) existing water and sewer services which comply with the minimum standards set forth herein are available to the lot; and
 - (E) the request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to the public health and safety.
- (e) Final determination. The commissioners court shall make the final decision on an application for a waiver, following review and recommendation by the county planning commission or department, if any. The applicant may withdraw a request for a waiver at any point in the process. If the requested waiver application is approved by the commissioners court, the county shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.

ENFORCEMENT

Texas Administrative Code Sections 364.71-364.72 – Model Subdivision Rules

8.15 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.

8.16 General Enforcement Authority of County. The provisions of this chapter are enforceable pursuant to the specific provisions hereof related to enforcement and state law including Water Code, Chapter 7 and Sections 16.353, 16.3535, 16.354, and 16.3545, and Local Government Code, Section 232.037 and Section 232.080.

**SECTION 9
DRAINAGE AND FLOOD CONTROL**

9.1 **Stormwater Runoff.** Stormwater runoff from any development may not be released onto neighboring property or into any County drainage ditch, swale easement, culvert or other facility or any such drainage facility associated with an existing road, whether public or private, at a rate greater than runoff from the property in an undeveloped condition.

9.1.1 All entities, i.e. TxDOT, County Drainage Utilities, and Cities, in Liberty County with jurisdiction over drainage in the area of a proposed subdivision shall be provided the drainage plan for the proposed subdivision for their review and approval.

9.2 **Conveyance of 100-Year Storm Frequency Flows.** Any drainage system shall be designed to convey all channelized or concentrated flows from a 100-year storm event within defined right-of-way or drainage easements, which shall not be narrower than twenty feet (20') in width.

9.3 **Completion of Drainage System Prior to Acceptance of Road Maintenance.** No streets will be accepted for maintenance by the County until all drainage structures, including culverts for all driveways constructed as of the acceptance date, have been both installed by the Applicant or occupant(s) of the Lot(s) and inspected and approved by the County.

9.4 **10 Year Event - Maximum Headwater Elevation for Drainage Crossings for Neighborhood and Local Streets.** All neighborhood and local streets, culverts underneath roads, streets, and bridges shall be designed so that storm water runoff from a 10-year storm event crossing such a street, road or bridge shall not produce a headwater elevation at the pavement edge above the drainage structure. All drainage crossings of proposed streets and roadways shall be designed to convey a 10-year storm event and not more than 6" of water over the road in a 100-year storm event. All roads and streets shall be designed and constructed to withstand the impact of storm water being impounded adjacent to and flowing over the road or street. Streets or roadways that traverse defined areas of the 100-year floodplain shall not increase the water surface level or change the floodplain limits.

9.4.1 A permanent depth gauge shall be placed at all road crossings where the 100-year frequency flow or lesser frequency is anticipated to flow over the road surface. The Commissioners Court may require installation of gates or warning devices at all or some of such locations.

This section (9.4) does not apply to residential driveways culverts.

- 9.5 **100 Year Event - Maximum Headwater Elevation for Drainage Crossings for Neighborhood and Local.** So that storm water runoff from a 100-year storm event crossing neighborhood and local streets, roads, or bridge shall not produce a headwater elevation at the roadway greater than six inches above the roadway crown elevation.

This section (9.5) does not apply to residential driveway culverts.

- 9.6 **Water Impact Requirements for Pavement Design.** All roads and streets shall be designed and constructed to withstand the impact of water being impounded adjacent to and flowing over the road or street.

- 9.7 **Drainage Design Methodology.** Computations by a Texas Registered Professional Engineer to support all drainage designs shall be submitted to the Precinct Commissioner or Designated Agent for review. The methodologies shall be based upon commonly accepted engineering practices used within the area. These computations shall clearly demonstrate the drainage design for the proposed subdivision will not have a negative effect on properties either upstream or downstream of the proposed subdivision. Drainage improvements offsite from the proposed subdivision may be required to prevent any negative effects on other properties.

9.7.1 All computations of flood plans, culverts, channels, etc., shall be based on fully developed upstream conditions.

9.7.2 A drainage area of 64 acres or greater is required within a contributing watershed to create a “flood plain”. For areas of flow with less than 64 acres of contributing area, no flood plain need be defined; however, a drainage easement must be dedicated for any concentrated flow.

9.7.3 By use of topographic contours, all known or identified instances of water “ponding” locations shall be shown on the subdivision development plans. “Ponding” may cause individual lot development flooding in the same manner as if the lot(s) were located within the floodplain. Consideration must be given to establishing a minimum Finished Floor Elevation on such lot(s) where ponding has been known to occur, or is identified by the topographic contours.

- 9.8 **Easements.**

9.8.1 All floodway concentrated flows for the 100-year storm event shall be contained within a dedicated drainage easement or right-of-way. All drainage easements shall provide a minimum of 15’ in width outside the limits of the ditch or channel for maintenance purposes along one side for ditches less than 35’ wide at the top; and along both sides for ditches more than 35’ wide at the top.

9.8.2 No development whatsoever will be permitted in the floodway or within drainage easements.

- 9.9 **Request for Additional Materials.** If the Precinct Commissioner or Designated Agent reasonably believes, based on materials submitted, that the Preliminary Plat or Final Plat will not comply with this section then they may request drainage data or other additional material to evaluate the Preliminary Plat or Final Plat, in which event the applicable review period will be recalculated from the date such completed and additional materials are submitted.

**SECTION 10
REVISION AND CANCELLATION**

10.1 Revision. An Owner, Developer, or Applicant of an existing Lot or Lots in a platted Subdivision may submit an application to revise the recorded subdivision by submitting the following to the Permits Department:

10.1.1 Revision Submittal Requirements:

- (a) Subdivision Application;
- (b) Ten copies of the proposed revised plat, conforming in all respects to the requirements of these Regulations; or, if submitted by a private homeowner who is not a developer in the Subdivision, other materials acceptable to the Precinct Commissioner or Designated Agent clearly setting forth the desired amendment;
- (c) A statement giving the reason for the proposed revision;
- (d) A filing fee equal to \$100.00, plus \$25.00 per affected Lot.

10.1.2 Review Period

The County will meet the review standards established by Chapter 232.009 of the Texas Local Government Code.

10.1.3 Public Notice

After the application is filed with the Commissioners Court, but before the application is considered by the Court, the Applicant shall file proof that the Applicant, at his expense, has delivered or published all notices required by Texas Local Government Code Section 232.009, including:

- (a) A notarized publisher's affidavit demonstrating publication of the application in a newspaper of general circulation in the County. The notice must include a statement of the time and place at which the court will meet to consider the application and hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the 7th day before the date of the meeting; and
- (b) Except for plat revisions only combining existing tracts, the Applicant shall also provide proof that notice has been provided to each affected property owner by certified or registered mail, return receipt requested, at the affected property owner's address in the subdivided tract.

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10.1.4 Criteria for Approval. The Commissioners Court may approve an application to revise a Subdivision upon a finding that:

- (a) The plat as revised conforms to the requirements of the Regulations, and one of the following has been satisfied:
 - (i) The revision will not interfere with the established rights of any owner of a part of the subdivided land, or
 - (ii) Each owner whose rights may be interfered with has agreed to the revision and signed a letter to the fact of their agreement.

10.1.5 Record Plat. Upon approval of the Revised Plat by Commissioners Court, the Applicant shall prepare a Record Plat for recordation in the Liberty County Plat Records in accordance with these Regulations. The Record Plat must be recorded within three (3) months of the approval of the Revised Plat or it will become void.

10.2 Cancellation. Any application to cancel an existing plat shall be submitted and considered in accordance with Chapter 232.008 of the Texas Local Government Code.

10.3 Combination. Where the Owner of two or more platted Lots wishes to combine Lots and/or existing tracts, without creating new Lots, the Commissioners Court may allow conveyance of portions of one or more previously platted Lots by metes and bounds description without revising the plat in order to accomplish the combination. In this case, an Applicant should present the Precinct Commissioner or the County Judge with a letter of request describing the proposed combination of Lots, including the name and location of the subdivision and an approximate sketch or map of the intended combination. The Commissioner's Court may grant the request by vote at a subsequent meeting of the Court, without publishing special notice.

So long as the division and combination of lots in no way decreases the minimum lot size required by the platted subdivision, or determined by the Liberty County minimum land area requirements for use of an onsite sewage filtration system.

**SECTION 11
VARIANCES**

- 11.1 Criteria for Variance. The Commissioners Court shall have the authority to grant variances from these Regulations, and from the Road and Drainage Specifications, when the public interest or the requirements of justice demands relaxation of the strict requirements of the Regulations. Factors to be considered by the Court in evaluating a request for variance shall include:
- 11.1.1 The actual situation of the property in question in relation to neighboring or similar properties, such that no special privilege not enjoyed by other similarly situated properties may be granted;
 - 11.1.2 Whether strict enforcement of the Regulations would deny the Applicant the privileges or safety of similarly situated property with similarly timed development.
 - 11.1.3 That the granting of the variance will not be detrimental to the public health, safety and welfare, or injurious to other property or will not prevent the orderly Subdivision of the land in the area in accordance with these Regulations; and
 - 11.1.4 Whether there are special circumstances of conditions affecting the land or proposed development involved such that strict application of the provisions of these Regulations would deprive the applicant the reasonable use of this land and that failure to approve the variance would result in undue hardship to the applicant. Financial hardship, standing alone, shall not be deemed to constitute undue hardship.
- 11.2 Application Materials. Any person who wishes to receive a variance should apply to the Permit Department with a list of, and a written justification for, each variance requested.
- 11.3 Discretion to Grant Variances. The decision of the Court whether to grant or deny a variance is at its complete discretion, and will be final.

**SECTION 12
ENFORCEMENT AND PENALTIES**

- 12.1 Category of Offense. A person commits an offense if the person knowingly or intentionally violates a requirement of these Regulations, including the Road and Drainage Specifications incorporated into these Regulations, or for On site Sewage Facilities. An offense under this provision is a Class B misdemeanor punishable by fine or imprisonment or both.
- 12.2 Enforcement Actions. At the request of the Commissioners Court, the County Attorney with Felony Jurisdiction for Liberty County, or other prosecuting attorney for the County, may file an action in a court of competent jurisdiction to:
- 12.2.1 Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under these Regulations; or
- 12.2.2 Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted by the Commissioner's Court under these Regulations.
- 12.3 Enforcement of Plat Notes. The enforcement of plat notes or restrictions is generally the responsibility of the Applicant and other persons holding a property interest, whether in fee simple or by easement, in the Subdivision. Plat notes shall reflect that the County may enforce any plat notes imposed pursuant to the Rules of Liberty County for On-Site Sewage Facilities or these Regulations, any plat note affecting County rights of way or drainage or the public health, safety and welfare. Moreover, the Commissioners Court shall have the right and authority through appropriate legal procedures to prohibit the construction or connection of utilities or issuing of permits if the plat notes or restrictions have been violated.

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APPENDIX 1
Standard Plat Notes and Certifications
Liberty County, Texas

Acknowledgment and certificate of dedication by the Owner, to wit:

For an individual:

STATE OF TEXAS
COUNTY OF LIBERTY

KNOW ALL MEN BY THESE PRESENTS, That I (Owner), owner of (Subdivision Acreage) acres of land out of the _____, Liberty County, Texas as conveyed to me by deed dated _____, and recorded in Volume ____, Page ____, Liberty County Deed Records, DO HEREBY SUBDIVIDE (Subdivision Acreage) acres of land out of the _____, (Note: If the subdivision lies in more than one survey, determine the acreage in each survey and repeat for each original survey within the subdivision) to be known as the (Subdivision Name), in accordance with the plat shown hereon, subject to any and all easements or restrictions hereto fore granted and do hereby dedicate to the public (or: "owners of the property shown hereon" for private streets) the streets and easements shown hereon.

WITNESS MY HAND, this _____ day of _____, A.D., 20____.

(Owner's Name) Owner

STATE OF TEXAS
COUNTY OF LIBERTY

BEFORE ME, the undersigned authority, on this day personally appeared (Owner's Name) known to me to be person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, A.D., 20____.

NOTARY PUBLIC in and for Liberty County, Texas

For a corporation:

STATE OF TEXAS
COUNTY OF LIBERTY

KNOW ALL MEN BY THESE PRESENTS, That (Corporation Name), a corporation organized and existing under the laws of the State of Texas, with its home address at (Address, City and State), owner of (Subdivision Acreage) acres of land out of the Original Survey, Liberty County, Texas as conveyed to me by deed dated _____, and recorded in Volume ____, Page ____, Liberty County Deed Records, DOES HEREBY SUBDIVIDE (Subdivision Acreage) acres of land out of the Original Survey, (Note: If the subdivision lies in more than one survey, determine the acreage in each survey and repeat for each original survey within the subdivision) to be known as the (Subdivision Name), in accordance with the plat shown hereon, subject to any and all easements or restrictions hereto fore granted and do hereby dedicate to the public (or: "owners of the property shown hereon" for private streets) the streets and easements shown hereon.

IN WITNESS WHEREOF the said Corporation Name has caused these presents to be executed by its Corporate Title, Name, thereunto duly authorized,

(Owners Name) Owner

STATE OF TEXAS
COUNTY OF LIBERTY

BEFORE ME, the undersigned authority, on this day personally appeared (Owner's Name) known to me to be person whose name is subscribed to the foregoing instrument as Title of Corporate Name and acknowledged to me that he executed the same in such capacity as the act and deed of said corporation for the purposes and considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____,
A.D., 20____.

NOTARY PUBLIC in and for Liberty County, Texas

Certificate of County Approval, to-wit:

STATE OF TEXAS
COUNTY OF LIBERTY

I, _____, County Clerk of Liberty County, Texas, do hereby certify that on the ____ day of _____, A.D. 20____, the Commissioners Court of Liberty County, Texas passed an order authorizing the filing for record of this plat, and said order has been duly entered in the minutes of the said Court in Book _____, Page _____.

WITNESS MY HAND AND SEAL OF OFFICE this the ____ day of _____, A. D., 20____.

County Judge
Liberty County, Texas

County Clerk
Liberty County, Texas

Certificate of Recording, to wit:

STATE OF TEXAS
COUNTY OF LIBERTY

I, _____, County Clerk of Liberty County, Texas, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office on the ____ day of _____, 20 ____, at ____ o'clock __.m., and duly recorded on the ____ day of _____, 20 ____, at ____ o'clock __.m., in the Plat Records of Liberty County, Texas, in Book ____, Page ____.

COUNTY CLERK – LIBERTY COUNTY, TEXAS

Certification of Surveyor:

I, _____, a Texas Registered Professional Land Surveyor certify that this plat has been prepared in accordance with the Subdivision Regulations of Liberty County.

Development Regulations Notes:

No construction or other development within this subdivision may begin until all Liberty County development requirements have been met.

Municipal/ETJ note:

No portion of this subdivision lies within the boundaries of any municipality's corporate city limits, or area of extra territorial jurisdiction.

OR

A portion of this subdivision lies within the (corporate limits) or (area of extra territorial jurisdiction) of the City of _____.

School District plat note:

This subdivision is within the boundaries of the _____ School District(s).

FEMA flood plain note:

(A) or (no) Portion of this subdivision lies within the boundaries of the 100 year flood plain as delineated on the FEMA Flood Insurance Rate Map for Liberty County Community Panel # _____, date _____.

Utility notes:

Electric utility service will be provided by _____.

Telephone utility service will be provided by _____.

Gas utility service will be provided by _____.

Sewage Disposal Note:

No structure in this subdivision shall be occupied until connected to a public sewer system or to an on-site wastewater system, which has been approved and permitted by Liberty County.

Individual Water Supply Note:

No structure in this subdivision shall be occupied until connected to an individual water supply, state approved community water system, or engineered rainwater collection system.

Water Supply Note:

_____ Water Supply Corporation, an approved public water supply system, has adequate quantity to supply the subdivision and provisions have been made to provide service to each lot in accordance with the policies of the water supply system.

Water Supply Representative

Pipeline Easement Note:

All existing pipeline easements within the limits of the subdivision have been shown.

Drainage Easement Note:

All drainage easements shown hereon shall be kept clear of fences, buildings, plantings, and other obstructions to the operation and maintenance of the drainage facilities.

Benchmark(s):

(All Applicants are required to set a minimum of one permanent Benchmark).

Benchmark: _____

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APPENDIX 2
Standard Forms for Construction Security and Maintenance
Security
Liberty County, Texas

Surety Bond:

PRINCIPAL:

SURETY: _____
With an A.M. Best Company, rating of "A" or greater and authorized to write
Bonds in the State of Texas

BENEFICIARY:

SUBDIVISION:

SUM:

DATE:

EXPIRATION DATE: Two years from Date of Bond

The PRINCIPAL and SURETY, a Corporation with an A.M. Best Company rating of "A" or greater and authorized to write bonds in the State of Texas, are jointly and severally held and bound unto the BENEFICIARY in the above stated sum in U.S. currency, and amount fixed by the BENEFICIARY pursuant to Chapter 232 of the Texas Local Government Code.

This Bond is conditioned on the faithful performance of the duties of the PRINCIPAL prior to the Expiration Date to provide for the construction and completion of the street and drainage Improvements in the SUBDIVISION to current Liberty County Road and Drainage Standards and Specifications so that the Improvements are performing to the Standards upon the approval of the construction of the Improvements.

Partial reductions in the Sum of this Bond may be allowed. Multiple recoveries less than the total amount of the Bond are allowed. If this Bond is unenforceable as a statutory Bond, the PRINCIPAL and SURETY shall be bound by this contract as a common law obligation.

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In lieu of drawing on the BOND, BENEFICIARY, in its sole discretion, may accept a Substitute Bond in the then current amount of the estimated cost of constructing the Improvements in the SUBDIVISION.

PRINCIPAL

SURETY

By: _____
Authorized Representative

By: _____
Authorized Representative*

Mailing Address

Mailing Address

City, State & Zip Code

City, State & Zip Code

*A certified copy of the Bylaws of the Surety or a Power of Attorney evidencing the authority of the representative to sign this Bond obligation must be provided to the County.

Irrevocable Letter of Credit:

IRREVOCABLE LETTER OF CREDIT NO. _____

TO: _____,
County Judge of Liberty County, Texas and his successors in office

ISSUER: _____, a federally insured financial institution
licensed to do business in the state of Texas

CUSTOMER:

AMOUNT OF SECURITY:

SUBDIVISION:

DATE OF POSTING:

EXPIRATION DATE: Two years from Date of Credit

The ISSUER hereby establishes this Credit and shall duly honor all drafts drawn and presented in accordance with this Credit. Liberty County may draw on the ISSUER for the account of the CUSTOMER up to the aggregate AMOUNT OF SECURITY.

This Credit is conditioned on the performance of the duties of the CUSTOMER prior to the Expiration Date to provide for the construction and completion of the street and drainage improvements in the SUBDIVISION to according to the adopted Rules & Regulations of Liberty County Road and Drainage Standards and Specifications and filing of the plat, so that the Improvements are performing to the Standards upon the approval of the construction of the Improvements.

The only requirement necessary to draw on any part or all of the total amount of this Credit is a letter from the County Judge indicating that the County considers a drawing on this Letter of Credit necessary in order to complete all or part of the SUBDIVISION Improvements to the County Standards. No further substantiation of the necessity for the draw is required by this Letter.

Partial reductions in the amount of this Credit may be allowed. Multiple recoveries less then the total amount of the Credit are allowed. If this Letter of Credit is unenforceable as a statutory obligation, the ISSUER shall be bound by this contract as a common law obligation.

Drafts must be presented on or before the EXPIRATION DATE by the close of business and will be honored within five (5) calendar days of presentment. In lieu of drawing on the Security, the County, in its discretion, may accept a substitute Security in the then current amount of the

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estimated cost of constructing the Improvements. This credit may be revoked only by the written consent of the ISSUER and the County.

Except as expressly set forth herein, this credit is governed by the “Uniform Customs and Practices for Documentary Credits” (International Chamber of Commerce Publication No. 500 (1993)).

ISSUER

ADDRESS OF ISSUER

BY: _____

NAME: _____

TITLE: _____

Authorized Representative

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Appendix 3
Sample Form for Water Service Agreement
And
Sample Form for Wastewater Agreement

APPENDIX 3A. SAMPLE FORM FOR WATER SERVICE AGREEMENT

AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED
_____ SUBDIVISION

PARTIES: This Agreement is by and between the Utility and the Subdivider, to wit:
The Utility is the governing board or owner of a retail public utility which supplies of drinking water known as _____.

The Subdivider is _____,
who is the owner, or the authorized agent of the owner, of a tract of land in Liberty County, Texas, that has been proposed to be divided into a subdivision (the Subdivision) known as _____.

TERMS: The Subdivider has prepared a plat of the Subdivision for submission to Liberty County for its approval. The Subdivider plans to construct for the Subdivision a drinking water distribution system to be connected to the Utility's public water system. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the drinking water flow anticipated to be needed by the Subdivision under fully built-out conditions (the anticipated water flow) to be approximately _____ gallons daily.

The Utility covenants that it has or will have the ability to provide the anticipated water flow for at least thirty years, and that it will provide that water flow. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded and the Subdivision's water distribution system has been connected to the Utility's water supply system.

The Subdivider covenants that the water distribution system will be constructed as shown in the Plans and as provided for through the plat-approval process so that the residents of the lots of the Subdivision may receive drinking water service from the Utility. Upon completion of the water distribution system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all right and title to the water distribution system.

The Subdivider has paid the Utility the sum of \$ _____ which sum represents the total costs of water meters, water rights acquisition fees, and all membership or other fees associated with connecting the individual lots in the Subdivision to the Utility's water supply system.

The above provisions notwithstanding, this Agreement shall no longer be in effect if the plat of the Subdivision is not approved by Liberty County or by a municipality whose approval is required.

ADOPTED 07-27-04

By affixing his or her signature to this Agreement, the person signing for the Utility warrants that he or she is authorized to sign this Agreement on behalf of the Utility. By affixing his or her signature to this Agreement, the person signing for the Subdivider warrants that he or she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on _____, 20____.

The Utility

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

The Subdivider

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

APPENDIX 3B. SAMPLE FORM FOR WASTEWATER SERVICE AGREEMENT

AGREEMENT REGARDING WASTEWATER SERVICE FOR THE PROPOSED
_____ SUBDIVISION

PARTIES: This Agreement is by and between the Utility and the Subdivider, to wit:
The Utility is the governing board or owner of a retail public utility which provides wastewater treatment and is known as _____.

The Subdivider is _____,
who is the owner, or the authorized agent of the owner, of a tract of land in Liberty County, Texas, that has been proposed to be divided into a subdivision (the Subdivision) known as _____.

TERMS: The Subdivider has prepared a plat of the Subdivision for submission to Liberty County for its approval. The Subdivider plans to construct for the Subdivision a wastewater collection system to be connected to the Utility's wastewater treatment system. Such wastewater will consist of domestic sewage, i.e., waterborne human waste and waste from domestic activities such as bathing, washing, and food preparation. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the wastewater flow projected from the Subdivision under fully built-out conditions (the projected wastewater flow) to be approximately _____ gallons daily.

The Utility covenants that it has or will have the capacity to treat the projected wastewater flow, and that it will treat that wastewater flow for at least thirty years. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded and the Subdivision's wastewater collection system has been connected to the Utility's wastewater treatment plant.

The Subdivider covenants that the wastewater collection system will be constructed as shown in the Plans and as provided for through the plat approval process so that the residents of the lots of the Subdivision may receive wastewater treatment service from the Utility. Upon completion of the wastewater collection system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all right and title to the wastewater collection system.

Insert the following paragraph if the Utility imposes any fees for connection of individual lots to the Utility's wastewater collection and treatment system:

The Subdivider has paid the Utility the sum of \$ _____ which sum represents the total costs of tap fees, capital recovery charges, and other fees associated with connecting the individual lots in the Subdivision to the Utility's wastewater collection and treatment system.

ADOPTED 07-27-04

The above provisions notwithstanding, this Agreement shall no longer be in effect if the plat of the Subdivision is not approved by Liberty County or by a municipality whose approval is required.

By affixing his or her signature to this Agreement, the person signing for the Utility warrants that he or she is authorized to sign this Agreement on behalf of the Utility. By affixing his or her signature to this Agreement, the person signing for the Subdivider warrants that he or she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on _____, 20_____.

The Utility

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

The Subdivider

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

ADOPTED 07-27-04

Appendix 4
Flood Damage Prevention Ordinance

Flood Damage Prevention Ordinance

Outline

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FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Texas has in Article 8280-13 V.A.T.S. delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Commissioners' Court of Liberty County, Texas, does ordain as follows:
(governing body) (local unit & state)

SECTION B. FINDINGS OF FACT

- (1) The flood hazard areas of Liberty County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

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

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

SECTION D METHODS OF REDUCING FLOOD LOSSES

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

- 1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- 2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- 4) Control filling, grading, dredging and other development which may increase flood damage;
- 5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

ARTICLE 2

DEFINITIONS

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

APPEAL – means a request for a review of the Flood Plain Administrator’s interpretation of any provision of this ordinance or a request for a variance.

AREA OF SHALLOW FLOODING – means a designated AO, AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater chance of flooding in any given year.

AREA OF SPECIAL FLOOD HAZARD – is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD – means the flood having a one percent chance of being equaled or exceeded in any given year.

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

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

ELEVATED BUILDING – means a non-basement building (I) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building”, even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

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

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

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

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

FLOOD INSURANCE STUDY – is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary – Floodway Map.

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

FLOOD PROTECTION SYSTEM – means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such as system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODWAY (REGULATORY FLOODWAY) – means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

HABITABLE FLOOR – means any floor usable for the following purposes; which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a “habitable floor”.

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

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

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

MANUFACTURERED HOME – means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

MEAN SEA LEVEL – means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION – means, for flood plain management purposes, structures for which the “start of construction” commenced on or after the effective date of a flood plain management regulation adopted by a community.

START OF CONSTRUCTION – (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

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

SUBSTNTIAL IMPROVEMENT – means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE – is a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

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

WATER SURFACE ELEVATION – means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

ARTICLE 3

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The Ordinance shall apply to all areas of special flood hazard with the jurisdiction of Liberty County.
(local unit)

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Liberty County," DATED 9-19-86, WITH ACCOMPANYING Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

SECTION D. COMPLIANCE

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS

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

SECTION F. INTERPRETATION

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

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

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

ARTICLE 4

ADMINISTRATION

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

The County Judge is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to flood plain management.

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

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

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- (2) Review permit application to determine whether proposed building site will be reasonable safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is Texas Water Commission, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
- (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

SECTION C. **PERMIT PROCEDURES**

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

- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures.
 - b. Elevation in relation to mean seal level to which any nonresidential structure shall be floodproofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B(2);
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - e. Maintain a record of all such information in accordance with Article 4, Section (B)(1).
- (2) Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
- a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - c. The danger that materials may be swept onto other lands to the injury of others.
 - d. The compatibility of the proposed use with existing and anticipated development.
 - e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - h. The necessity to the facility of a waterfront location, where applicable;
 - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - j. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D – VARIANCE PROCEDURES

- (1) The Appeal Board as established by the community shall hear and render judgement on requests for variances from the requirements of this ordinance.
- (2) The Appeal Board shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- (3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

- (4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, causes fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the costs of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (10) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D(1)(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE 5

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

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

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters; and,
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

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

- (1) Residential Construction – new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C(1)a., is satisfied.
- (2) Nonresidential Construction – new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of

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resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Administrator.

- (3) Enclosures – new construction and substantial improvements, with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Design for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) Manufactured Homes –
 - (a) Require that all manufactured homes to be placed within Zone A, shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - (b) All manufactured homes shall be in compliance with Article 5, Section B (1).
 - (c) Require that all manufactured homes to be placed on substantially improved within Zones A1-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchor to an adequately anchored foundation system in accordance with the provision of Section B(4) of this Article.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

- (1) All subdivision proposals including manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C and D of this ordinance.
- (2) All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions or Article 5 of this ordinance.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.
- (4) All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

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

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

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

- (1) All new construction and substantial improvements of residential structures have the lowest flood (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of nonresidential structures;
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
 - (ii) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C (1)a., are satisfied.
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION E. FLOODWAYS

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

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

At a regular meeting of Commissioners' Court of Liberty County, Texas, held on the 2nd day of March, 1992 on motion made by Lee Groce, seconded by Bobby Payne, the following ORDER was adopted:

THE COMMISSIONERS' COURT
OF
LIBERTY COUNTY, TEXAS

ORDERS

WHEREAS, the Commissioners' Court on the 25th day of July, 1988, adopted a Flood Damage Prevention Order; and

WHEREAS, V.T.C.A., Water Code Section 16.315 provides that all political subdivisions are hereby authorized to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program, including but not limited to: (5) Engaging in floodplain management and adopting and enforcing permanent land use and control measures consistent with the criteria established under the National Flood Insurance Act.

BE IT RESOLVED, that any person, firm, corporation or agent who shall violate any provision of the above mentioned Flood Damage Prevention Order, or fail to comply therewith, or with any of the requirements thereof, or who shall, after having obtained a permit, erect, construct, or alter, any structure, or shall place any fill material, in violation of the detailed statement or drawing submitted and approved thereunder, shall be assessed a fine not to exceed TWO HUNDRED AND NO/100 (\$200) DOLLARS.

Each day that a violation hereof occurs constitutes a new and separate offense. The

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assessment of a fine or fines for violations of this order shall not preclude the Commissioners' Court from seeking additional remedies, including but not limited to injunctive relief and/or contempt actions.

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ADOPTED, ORDERED, AND ENTERED OR RECORD, in the Minutes of
Commissioners' Court of Liberty County, Texas, this 2nd day of March, 1992.

COUNTY OF LIBERTY

DEMPSIE HENLEY
County Judge

ATTEST:

WANDA BARKER
County Clerk