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### AGENDA ITEM REQUEST FORM

#### Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

#### AGENDA ITEM

Discussion and possible action to finalize changes to the Hays County Development Regulations; hold a public meeting and approve Order Adopting Rules for On-Site Sewage Facilities.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	June 4, 2013	

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Roxie McInnis	COBB	N/A

#### SUMMARY

Upon implementation of the Hays County Rules for On-Site Sewage Facilities, it became evident that changes were needed in order to make the work of the Development Services Division more efficient and effective. The Texas Commission on Environmental Quality has approved amendments to these rules. The approved changes are provided in backup.

Additionally, amendments to the Hays County Development Regulations are being proposed. Documentation and justification for the proposed changes are provided in backup.

Changes to Hays County Development Regulations

New Page #	Old Page #	Affected Section	Notes
5	5	701.3.01 (K)	The definition of "Department" was changed to describe the Development Services Department or Transportation Department rather than the outdated RPTP department
6	6	701.3.01 (O)	The definition of "Director" was changed to correspond with "Department", above.
9	9	701.3.01 (OO)	The definition of "Road Department" was deleted. "Department" in general covers the meaning.
9	9	701.3.01 (PP)	The definition of "Road Director" was deleted. "Director" in general covers the meaning.
10	10	701.4.01	"RPTP" has been changed to Development Services as the agent for receiving and reviewing all applications under the Development Regulations.
13	13	701.7.01 (J) (5-7)	The requirement for additional published maps for subdivision applications is unnecessary and has been deleted. The location is always clear and elevation contours are required elsewhere in the regulations.
16	16	701.7.06	This section requires an alphanumeric reference identifier. The Department uses only numeric reference identifiers. The word "alphanumeric" has been deleted.
16	16	701.7.07	This section requires that the applicant and the permittee have their tax statuses confirmed before the Department begins review of an application. This general requirement was removed in an earlier revision, however, this section was overlooked.
18	18	701.8.01(A)(1)	Section 212.016 of the Texas Local Government Code (adopted by the court in June 2012) states that notice, a hearing, and the approval of other lot owners is not required for the approval of an amending plat. Based on the nature of amended plats, the Department would like to approve these plats administratively.

24	23	701.9.06	<p>This section requires that the Department furnish the list of political subdivisions which are required to be notified for each application. Because all political subdivisions in which a property is located are shown on tax statements, the modification of this section streamlines the process for all parties involved. In the future, the applicant will be responsible for the identification and notification of all political subdivisions. Proof of such notification is required under the Regulations and it will be verified by the Department that it has been done correctly.</p>
24	24	701.9.08(A)	<p>Replats (under TLGC 212) do not require that notice to other property owners be sent with a return receipt requested. The addition to this section will allow notice for these types of plats to be sent without a return receipt.</p>
24	24	701.9.08 (B)	<p>This section now requires that notification of political subdivision be completed prior to the submittal of an application.</p>
25	24	701.9.08 (C)	<p>This section now requires that notification of contiguous property owners be completed prior to the submittal of an application. Additionally, a note has been added stating that if any major changes are made to the project, the applicant will be required to notify the other owners again.</p>
25	24	701.9.08 (D)	<p>This section previously required that the proof of notification be submitted after the application had been submitted. The section has been updated to require that the proof be submitted with the application.</p>
40	39	705.3.01	<p>A note was added to disqualify further division of platted lots as "exempted subdivisions". A platted lot may not be divided by metes and bounds alone.</p>
	41	705.4.05(A)	<p>This section required that supplemental maps be submitted with subdivision applications. These maps are not necessary and the section has been deleted.</p>
	51	705.8.03(F)	<p>The wording "In order to promote safe use of roadways and preserve the conditions of public roadways" has been removed from the driveway permit statement which appears on all subdivision plats.</p>
54	53	705.10.01 (A)	<p>This section previously required that the applicant submit filing fees and tax certificates along with the record plat to the Department. The Department does not file plats with the Clerk's office so this requirement has been removed.</p>

54	53	705.10.03	This section required photographic mylars for record plats, however, photographic mylars can no longer be produced. The section has been updated to require that paper plats be submitted to the Clerk's office for recordation.
55	54	705.11	This section as a whole has been updated to reflect the changes necessary to process plat vacations, replats, and plat amendments as authorized under the order adopted by the court in June 2011.
55	54	705.11.01	The process for plat cancellations only applies to subdivisions located outside of the extra-territorial jurisdiction of municipalities.
56	54	705.11.02	This section is now titled "Plat Vacation" which is an alternative procedure for plat cancellation and applies to subdivisions located within the extra-territorial jurisdiction of municipalities.
56	54	705.11.03	This section is now titled "Replats" and outlines the procedure for such plats.
56	54	705.11.04	A new section has been added to cover plat amendments. Amended plats are exempt from notice requirements and may be approved administratively.
56	55	705.12.02	A note was added in the "Notice Required" section which would allow the Commissioners Court to waive notice requirements for new subdivisions of six lots or less where there is existing water and wastewater service.
57	55	705.12.05	This section was added to clarify published notice requirements for new subdivisions.
57	56	705.12.06	The changes in this section reflect the difference in requirements between revised plats and replats. The new requirement states that only owners of contiguous properties are required to be notified, rather than each owner in the subdivision.
58	56	705.12.07 (OLD) 705.12.07 (NEW)	The "Exemption from Notice" section was removed. The applicable portions are noted elsewhere in the chapter. The criteria for published notice for Revised Plats replaces the previous requirements.
98		721.6	The "Transportation Planning" Sub-chapter was added to allow the Department to require right-of-way dedication in accordance with the county's transportation plan.

113	110	731.2.01(B)(3)	This section covers the construction of mailboxes in the right-of way. It has been modified to allow non-breakaway mailboxes to be installed in the right-of way of interior roadways.
152-153	149	744.2	This Sub-Chapter previously required exempted Manufactured Home Rental Communities to register. The requirement to register has been removed.
163	160	751.2.01 (A)	The "Use of County Properties of Facilities" chapter has been modified to allow for the construction of non-breakaway type mailboxes and address signs in the right-of-way of interior, non-thoroughfare roadways.

- (F) Conservation Easement – an easement on real property for the purpose of limiting or restricting development activities on the property subject to said easement. To qualify as a Conservation Easement under this Chapter, the easement shall be granted to the public and shall be held by the County or other non-profit legal entity recognized by the County as custodian for the County. A Conservation Easement shall be in such form and under such conditions as are acceptable to the County.
- (G) Contiguous Property(ies) - land parcels, tracts or lots of real property that are immediately adjacent, connected to one another or share a common boundary, but may also include land separated only by a roadway, utility corridor or aquatic feature. Properties that are separated by a roadway, utility corridor or aquatic feature within two hundred feet are considered Contiguous Properties.
- (H) Contributing Zone of the Edwards Aquifer - The area or watershed where runoff from precipitation flows downgradient to the recharge zone of the Edwards Aquifer and is generally located upstream (upgradient) and north to northwest of the recharge zone, as identified by the Texas Commission on Environmental Quality (TCEQ) under the Edwards Aquifer Rules. It is the intent of the County that this definition conform to the corresponding definition included in the TCEQ Edwards Aquifer Program regulations, as subsequently amended. In the event an Applicant cannot determine with specificity the location of the boundary of the Contributing Zone of the Edwards Aquifer, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department.
- (I) County - Hays County, Texas. Where referenced herein, the County may include either the Commissioners Court or personnel, departments or agencies of the County acting under authority delegated to such personnel, departments or agencies by the Commissioners Court.
- (J) County Clerk - The County Clerk of Hays County.
- (K) ~~Department - The - Either the Hays County Resource Protection, Transportation and Planning Department, or Hays County Development Services - Department, as applicable.~~
- (L) Development - All land modification activity, including the construction of buildings, roadways, paved storage areas, parking lots, storm water management facilities and other impervious structures or surfaces.
- (M) Development Agreement – A written agreement entered into between the County, the Permittee and/or the Owner(s) of the Subject Property that stipulates the conditions under which development activities on the Subject Property will be conducted. Development Agreements must have the approval of the Hays County Commissioners Court.
- (N) Development Authorization – The approval by the Hays County Commissioners Court or by departments, agents, or personnel delegated such approval authority by the Commissioners Court of one or more Applications for development activities governed by these Regulations for a specific project or tract of land, as identified in such Application(s). Development Authorizations shall include approved preliminary plans, final plats, flood hazard area permits, on-site sanitary sewer facility permits, Manufactured Home Rental Community permits, Permits for the Use of County Property

**Comment [RM1]:** This definition has been updated to match the names of the applicable departments.

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or Facilities, a Land Use/Location Restriction license, combinations of any such permits or licenses, and any other approvals or authorizations issued under these Regulations. This term shall also apply to Development Authorizations or equivalent approvals issued by the County prior to the effective date of these Regulations.

- (O) Director - The Director of the ~~Hays County Transportation Department or Hays County Development Services Department, as applicable, Hays County Resource Protection, Transportation and Planning Department~~ and any successor thereto.
- (P) Dwelling Unit - One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of one household. Dwelling units may include:
  - (1) A Single Family Residence;
  - (2) An Apartment;
  - (3) A Condominium Unit; or,
  - (4) A Manufactured Home within a Manufactured Home Rental Community;
- (Q) Edwards Aquifer Recharge Zone - Any area where the stratigraphic units constituting the Edwards Aquifer crop out, including the outcrops of other geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Edwards Aquifer, as identified by the Texas Commission on Environmental Quality under the Edwards Aquifer Rules. It is the intent of the County that this definition conform to the corresponding definition included in the TCEQ Edwards Aquifer Program regulations, as subsequently amended. In the event an Applicant cannot determine with specificity the location of the boundary of the Edwards Aquifer Recharge Zone, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department. Any determination by the Department will affect only these Regulations and will not in any manner be binding upon the TCEQ. The Department may require the Applicant to obtain a determination from the TCEQ, and any determination by the TCEQ regarding the location of the Recharge Zone will control for purposes of these Regulations. The intent of these Regulations is to coordinate applicable state and local regulations such that the definition of the Edwards Aquifer Recharge Zone under these Regulations shall be identical with the definition found within the Edwards Aquifer Rules.
- (R) Edwards Aquifer Rules - The Regulations promulgated by the Texas Commission on Environmental Quality (TCEQ) relating to the Edwards Aquifer, currently set forth in Title 30, Texas Administrative Code, Chapter 213, as amended from time to time.
- (S) Endangered Species Act - the federal Endangered Species Act of 1973, including any and all subsequent amendments.
- (T) 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.
- (U) Groundwater Conservation District (GCD) - A special district or other governmental entity authorized under the laws of the State of Texas with authority over groundwater

**Comment [RM2]:** This definition has been updated to correspond with the appropriate department names

(4) Private roadways, shared access easements, and shared access driveways not dedicated to the public and not maintained by the County, but used for emergency services access or general egress/ingress by the public as a part of any Development Authorization issued under these Regulations.

~~(MM)~~(OO) Regulations - The Hays County Development Regulations, inclusive of Chapters 701 through 799.

~~(NN)~~(PP) Reviewing Authority – An authorized municipality, Hays County, or a joint office established by one or more authorized municipalities and Hays County for the purpose of conducting reviews and issuing approvals for development activities.

~~(OO)~~ Road Department – The Hays County Road Department.

~~(PP)~~ Road Director – The Director of the Hays County Road Department.

(QQ) Single Family Residence - Any habitable structure constructed on, or brought to, its site and occupied by members of a family, including but not limited to manufactured homes situated on leased space.

(RR) Subdivision - The division of a tract of land situated within Hays County and outside the corporate limits of any municipality into two or more lots to lay out or identify: (i) a subdivision of the tract, including an addition; (ii) lots; (iii) roadways, 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 roadways, alleys, squares, parks, or other parts; or (iv) division of the property for the purposes of establishing a security interest or a financial severance. It is the intent of the Commissioners Court of Hays County that the term "subdivision" be interpreted to include all divisions of the land to the fullest extent permitted under the laws of the State of Texas.

(1) A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance, in a contract for deed or other executory contract to convey, in a lease (other than agricultural and hunting leases), or by using any other method of a conveyance of an interest in land.

(2) A division of land shall be considered as relating to the laying out of streets, whether public or private, if:

The division occurs prior to the later to occur of: two (2) years from the date of the completion of construction of any roadway onto which the Lot has frontage or, in the case of public roadways, the expiration of the performance or maintenance bond for any such roadway;

The division of land creates one or more Lots without practical, physical vehicular access onto a Regulated Roadway or with less than fifty feet (50') of direct frontage onto a Regulated Roadway or calls for driveways onto Regulated Roadways that are spaced fewer than fifty feet (50') apart;

The division of land will affect drainage on, in or adjacent to a public roadway or any county drainage ditch, swale, culvert or other drainage facility; or

**Comment [RM3]:** These definitions have been deleted. The definitions of "Department" and "Director" have been updated accordingly.



Other circumstances exist which, in the determination of the Department, cause such division of land to be related to the laying out of roadways or related to drainage for any roadway to which any Lot has access.

- (SS) Subject Property – the property or tract for which an Application has been submitted under these Regulations.
- (TT) Surface Water - Water from streams, rivers or lakes or other bodies of water above the surface of the ground.
- (UU) TCEQ Regulated Development - Any development or construction activity that would constitute a Regulated Activity under the Texas Commission on Environmental Quality Edwards Aquifer Rules (see 30 TAC §213.3), but without regard to the aquifer over which the activity is conducted. If a Lot larger than five acres is restricted by plat note prohibiting (i) further resubdivision of the Lot into lots five acres in size or smaller and (ii) any Development other than the construction of a single-family residence or duplex and associated customary out buildings, such as a barn or garage apartment, then such Development on the Lot shall be considered excluded from the term "TCEQ Regulated Development" for purposes of these Regulations.
- (VV) Wetland(s) - an area (including a swamp, marsh, bog, prairie pothole, or similar area) having a predominance of hydric soils that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support it and that under normal circumstances supports the growth and regeneration of hydrophytic vegetation. The intent of this definition is to conform to the corresponding definition included in the Texas Water Code, Chapter 11, Subchapter J, as subsequently amended.
- (WW) Working Day – Any recognized working day that the County offices are routinely open for business, specifically excluding weekends and holidays recognized by the County.

#### ***Sub-Chapter 4 - Delegation of Authority, Appeals and Public Records***

##### **§4.01. Responsible Departments**

The Commissioners Court designates the Hays County ~~Resource Protection, Transportation and Planning~~ Planning/Development Services Department (Department), and specifically the Director of the Department, as agent for receiving and reviewing Applications submitted under these regulations and as custodian of records for all information received, acquired or developed during the exercise of these duties. The Department may coordinate with any other County department, agency or personnel in the performance of the duties required and allowed under these regulations.

**Comment [RM4]:** The name of the department has changed and has been updated accordingly.

##### **§4.02. Delegation of Authority**

The Department and Director are delegated the authority by the Commissioners Court to conduct the activities required on behalf of the County under these regulations. All officials and employees of Hays County, Texas, having duties under these Regulations are authorized to perform such duties as are required of them under said Regulations. The Commissioners Court reserves the final authority for approval or denial of any Application submitted under these regulations.

**§6.05. Refunds of Fees**

Unless specifically noted herein, all fees paid to the County are non-refundable. The Department may refund fees under the following circumstances:

- (A) Fees collected for reviews and/or inspections that are not actually conducted;
- (B) Fees collected that exceed the fee offset by authorized economic incentives; or,
- (C) Permit fees for any portion of a permit term where the Permittee voluntarily surrenders or revokes the permit.

***Sub-Chapter 7 - General Application and Approval Procedures***

**§7.01. Application Forms**

The Department shall develop and make available to the public forms for submitting Applications for the various types of approvals required under these regulations. These Application forms shall provide for the following information:

- (A) the legal name of the Applicant;
- (B) the name or title by which the Applicant will describe the application (for Subdivision Applications only);
- (C) the name, address and contact information for the Applicant's designated contact person and any person submitting Application materials on behalf of the Applicant;
- (D) the legal name, address and contact information for the Owner(s) of the Subject Property, if different from the Applicant;
- (E) The legal name of the Permittee, if the Development Authorization is to be issued to a person that is not the Applicant;
- (F) the HCAD Property Identification number(s) for the Subject Property;
- (G) the type of application being submitted;
- (H) the identification of any supplemental information submitted;
- (I) the County Precinct(s) in which the Subject Property is located;
- (J) general location information for the Subject Property, including any or all of the following:
  - (1) The "911" Street Address;
  - (2) Geographic Coordinates (for Subdivision Applications only);
  - (3) Current Legal Description;
  - (4) The Primary and Secondary Access/Frontage Roadways (for Subdivision Applications only);
  - ~~(5) A published topographic map (for Subdivision Applications only); or,~~
  - ~~(6) A County Roadway map (for Subdivision Applications only); or,~~

~~(7) A map from another source that accurately depicts the location of the Subject Property which provides sufficient detail to County staff to easily find the property in order to conduct necessary inspections.~~

- (K) certifications by the Applicant, the property Owner and the Permittee required under these regulations;
- (L) the signature of the Applicant;
- (M) documentation for tracking the Application through the County’s review process;
- (N) the number of copies of the Application and supplemental information to be submitted; and,
- (O) Any other information requested by the Department to fully evaluate the proposed development project.

**Comment [RM5]:** Based on the nature of subdivision applications, the location of the subject property is always clear. These requirements are unnecessary.

The Applicant is responsible for ensuring that all applicable information regarding the Application is provided on the Application Form. Supplemental information may be attached to the Application Form but should be noted in the designated section of the Application Form.

**§7.02. Representations and Certifications**

By submitting an Application under these regulations, the Applicant, Permittee and/or the owner(s) of the Subject Property shall represent and certify:

- (A) there is no delinquent tax liability to the County on the Subject Property;
- (B) the owner(s) of the Subject Property has authorized the submittal of the Application;
- (C) the County is authorized to review and act upon the application.

**§7.03. Supplemental Information**

Where required by individual Chapters, the Applicant shall submit the specified number of copies of supplemental material. Supplemental information shall conform to the following format:

- (A) Where possible, supplemental information should be submitted in black and white format. The submittal of color information should be coordinated in advance with the Department.
- (B) Supplemental information consisting primarily of text shall be submitted on 8-1/2” x 11” standard paper.
- (C) Drawings or graphic information should be submitted using one of several commercially available sizes of standard paper:
  - (1) 8-1/2” x 11” standard paper (Size A)
  - (2) 11” x 17” standard paper (Size B)
- (D) With prior coordination, Applicants may submit over-sized drawings or graphic information on any standard commercially available media, including:
  - (1) 17” x 22” or 18” x 24” (Sizes C or C1)

- (C) Applicants that are governmental entities that are requesting a waiver of fees by the County shall submit written documentation signed by the entity's chief elected official or chief executive officer formally requesting the County to waive the applicable fees and indicating that the entity will in turn waive similar fees for the County. The Director is authorized to waive such fees upon receipt of the necessary documents.
- (D) Applicants using an assumed name shall submit a date-stamped copy of the Certificate of Assumed Name (for Subdivision Applications only).

**§7.06. Application Identification**

Upon receipt of an Application, the Department shall assign a unique alphanumeric reference identifier to the Application. The Department may elect to assign one reference identifier to a group of related Applications. The Department may also elect to utilize identifiers that allow tracking of different types of applications. The assigned reference identifier shall be utilized by the Department and the Applicant on all documents related to the Applications. All Application forms developed and utilized by the Department under these Regulations shall designate a prominent location for this reference identifier.

**Comment [RM6]:** The Department uses only numeric reference identifiers.

**§7.07. Administrative Review**

Before an Application filed under these regulations will be reviewed by the Department, it must be administratively complete. An administratively complete Application will contain responses to all items on the Application form, will be accompanied by the payment of all applicable fees, and will have the tax status confirmed for the Applicant, the Permittee and the Subject Property. The Department shall conduct an initial review of the Application to determine whether it is administratively complete. If the Application is not administratively complete, the Department shall notify the Applicant of the deficiencies with the Application not later than ten (10) working days after the date the Application is received by the County. Further processing of the Application shall be suspended until these administrative deficiencies have been remedied. The Applicant shall provide a written response to each noted deficiency issued by the County, accompanied by any additional information required to respond to such deficiency. Once a Subdivision Application has been determined by the Department to be administratively complete, the Department shall provide written confirmation to the Applicant, with a copy to the County Commissioner(s) in whose precinct the Subject Property is located. All other applications which are administratively complete shall immediately be subject to technical review without requirement of the notices. All administratively complete applications shall be subjected to a technical review by the Department.

**Comment [RM7]:** The Regulations originally required that all parties involved in each development be current on their taxes. Upon implementation, it proved to be difficult to track and enforce and was omitted from the rules in 2011. This section was overlooked and not changed at that time.

**§7.08. Technical Review**

Before an Application filed under these regulations can be subjected to a technical review by the Department, it must be determined to be administratively complete. Before an Application filed under these regulations will be submitted to the Commissioners Court for final action, the Application shall be reviewed by the Department and determined to be technically complete. The Department shall review the Application to ensure that it complies with the technical requirements of these regulations, including any applicable variances requested. If the Application is not technically complete, the Department shall notify the Applicant of the technical deficiencies with the Application. Further processing of the Application shall be suspended until these deficiencies have been remedied. The Applicant shall provide a written

**§7.13. Notice of Action on Application**

The Department shall notify all Applicants of the final action taken on their Application. Development Authorizations issued administratively by the Department or based on an Approval by the Commissioners Court shall comply with the notice requirements in Subchapter 11 of this Chapter. For Applications that are denied either by the Commissioners Court or administratively by the Department, the Department shall send written notice to the Applicant, the Permittee and the owner of the Subject Property providing a detailed list of reasons the application is denied. Unless otherwise required, notice of action on an Application shall be sent within ten (10) working days of said action.

**§7.14. Withdrawal of Application**

An Applicant may withdraw an Application by submitting a written request to the Department. Upon receipt of a written request for withdrawal of an Application, the Department shall cease processing the Application and shall confirm the withdrawal of the Application in writing, with copies forwarded to the Applicant, Permittee, owner of the Subject Property, and the Commissioner(s) in whose precinct(s) the Subject Property is located. The written confirmation shall address the disposition of fees (both refundable and non-refundable) and shall indicate that a new application, including fees, shall be required prior to conducting any of the regulated activities included in the original Application.

*Sub-Chapter 8 - Administrative Authorization and Variances*

**§8.01. Delegation of Administrative Authorizations**

The Commissioners Court hereby delegates to the Department the authority to issue certain Development Authorizations administratively, subject to the following conditions:

- (A) The Department may grant the following types of acknowledged administrative authorizations:
  - ~~(3)~~(1) Minor revisions and lot line corrections to previously platted lots that do not change the total acreage of any affected lot by more than ten percent (10%) of its original acreage; Plat amendments pursuant to Section 705.11.04
  - (4)(2) Site Development Reviews issued under Chapters 711 and 755;
  - ~~(5)~~(3) Utility service certifications for developments where the County has issued a Development Authorization and which are in compliance with these regulations;
  - ~~(6)~~(4) Flood Hazard Area Permits issued under Chapter 735 that either request no variances or request only variances for which the Department has been delegated variance approval authority;
  - ~~(7)~~(5) On-Site Sewage Facility (OSSF) permits issued under the Hays County On-Site Sewage Facilities rules that either request no variances or request only variances for which the Department has been delegated variance approval authority;
  - ~~(8)~~(6) Registrations and Minor Permits for Use of County Facilities issued under Chapter 751;
  - ~~(9)~~(7) Determinations of Qualification for Economic Incentives issued under Chapter 761;

**Comment [RM8]:** The section of the TLGC which discusses plat amendments states that notice, a hearing, and the approval of other lot owners is not required for the approval of an amending plat. The Department would like to approve these plats administratively.

### §9.06. Identification of Affected Political Subdivisions

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

**Comment [RM9]:** The political subdivisions in which a property is located are listed on all tax statements. Because the applicant is already required to gather and submit these statements, the modification of this section streamlines the process for both the department and the applicant.

### §9.07. Identification of Contiguous Property Owners

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

### §9.08. Delivery of Written Notice

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

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

**Comment [rm10]:** With the adoption of the provisions of TLGC 212, notice of public hearings to adjoining property owners may be sent by certified mail without a return receipt.

**Comment [RM11]:** This change will streamline the review process.

the Application to each of the owners of Contiguous Property that are not parties to the Application prior to the submittal of the application. In the event that major changes are made to the project during the course of Technical Review, the Department may, on a case by case basis, require that Contiguous Property owners be notified of the changes.

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

**Comment [RM12]:** This change will streamline the review process.

**Comment [RM13]:** This statement has been added to ensure that owners of contiguous properties will not be adversely affected in the Department's attempt to streamline the process.

**Comment [RM14]:** This change will streamline the review process.

**§9.09. Published Notice**

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

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

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

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

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

***Sub-Chapter 10 - Public Participation***

**§10.01. Participation Invited**

The Commissioners Court invites and welcomes public participation in the process of reviewing and approving development applications. In administering these regulations, the Department is directed to ensure compliance with the requirements of the Americans With Disabilities Act to

### *Sub-Chapter 3 - Exemptions*

#### **§3.01. Exempted Subdivisions**

The following subdivisions of property are exempted from the subdivision and platting requirements, except for the requirement to register the subdivision, as outlined below:

- (A) Exemptions allowed as defined by Texas Local Government Code §232.0015.
- (B) Subdivisions made for the purpose of financial severance to establish a security interest in any portion less than the entirety of the property, which, if the security interest were exercised would sever the property into separate ownership.

Exempted subdivisions registered with the County must provide direct access to a regulated roadway. This requirement to provide direct access shall not be construed to require formal subdivision where TLGC §232.0015 does not require formal subdivision. Further subdivisions of platted lots do not qualify for exemptions under this sub-chapter.

**Comment [rm15]:** Platted lots may not be divided by metes and bounds. Changes to platted lots must be made by a replat or amended plat.

#### **§3.02. Registration**

- (A) All exempt subdivisions shall register the division with the County Clerk and submit the following to the Department:
  - (1) A duplicate copy of the recorded conveyance instrument, with legible metes and bounds description attached thereto;
  - (2) An executed registration Application in the form promulgated by the Department which shall require the Owner to acknowledge that all Lots remain subject to the other development regulations of the County; and,
  - (3) An affidavit stating that the owner/subdivider of the land acknowledges that any change in the exemption status will require the property to be formally subdivided under this Chapter.
- (B) In addition to the items required by (A), above, a person whose subdivision is exempt from the subdivision and platting requirements of these Regulations under the Texas Local Government Code §232.0015 shall comply with the following additional requirements:
  - (1) The person shall file with the County Clerk and submit to the Department a survey or sketch (which may be on tax parcel maps or other form approved by the Department) showing the boundaries of the Lots, adjacent roads and adjacent property owners; and,
  - (2) The person shall submit to the Department an affidavit stating that the person will provide a copy of the affidavit required under 705.3.02(A)(3) to all persons to whom they transfer a subsequent interest in any portion of the subdivided property, whether through gift, sale or other means of transfer.
- (C) A person whose subdivision is exempt from the subdivision and platting requirements of these Regulations as a Financial Severance subdivision shall comply with the following additional requirements:
  - (1) The person establishing a financial severance boundary(ies) shall file with the County Clerk and submit to the Department a survey or sketch showing the location within the



- (E) Any technical representatives or consultants responsible for preparation of the Application or Supplemental Information (e.g. professional engineers, professional geoscientists, professional land surveyors, registered sanitarians, attorneys, accountants, etc.).

#### §4.04. Communication with Precinct Commissioner

The Applicant or the Applicant's authorized agent may be required to contact the Commissioner(s) in whose precinct(s) the proposed Subdivision is located prior to the submission of the Application.

#### §4.05. Supplemental Information

In addition to the items required to be submitted with the Application in accordance with Chapter 701 and Section §705.4.03, each Application for a Preliminary Plan or a Final Plat shall include the following:

- ~~(A)~~ Property location map(s), which utilizes at least one of the following base maps:
  - ~~(1)~~ A topographic map as published by the U.S. Geological Survey (USGS), or an equivalent map from another source, indicating the location of the Subject Property;
  - ~~(2)~~ A County Roadway map as published by the Texas Department of Transportation indicating the location of the Subject Property; and/or;
  - ~~(3)~~ A County Roadway map from another source that accurately depicts the location of the Subject Property.
- ~~(B)~~(A) A copy of the deed or deeds documenting current ownership of the Subject Property;
- ~~(C)~~(B) Engineering, Surveying and other drawings and documents containing the specific information required for either a Preliminary Plan or a Final Plat which can be found in sub-chapters 6, 7 and 8 of this chapter;
- ~~(D)~~(C) All other documents or reports required pursuant to these Regulations and any associated bonds or letters of credit; and;
- ~~(E)~~(D) Any Subdivision proposal that is not exempt according to Chapter 705, Subchapter 3 shall be required to submit digital files for all drawings and graphics of the Subdivision, as required under Chapter 701, Subchapter 7.

**Comment [RM16]:** These items are not necessary to determine the location of the property.

#### §4.06. Application Review Periods

The Department review period for an application for a Preliminary Plan or Final Plat shall begin on the first working day after a completed Application is submitted and shall end on the first Wednesday following the expiration of fifteen (15) working days thereafter.

- (A) An application for a Preliminary Plan or Final Plat shall be deemed to be administratively complete for purposes of this Chapter when all of the materials required by these Regulations are delivered to the Department together with:
  - (1) ~~E~~for Preliminary Plans, those items required in Subchapters 5 and 6, ~~6 and 7~~ of this Chapter, and;
  - (2) ~~E~~for Final Plats, those items required in Subchapters 5 and 8 of this Chapter.

**§8.03. Roadway and Right-of-Way Information**

- (A) Total length of all roadways, to the nearest one-tenth (0.1) mile, and a declaration as to which category of roadway will be constructed, as described in Chapter 721.
- (B) Total area of all rights-of-way proposed for dedication.
- (C) The approved names or designations for all roadways, public access easements, and shared access driveways.
- (D) Construction plans, specifications and cost estimates, prepared by a Texas licensed professional engineer, and financial assurance documentation, if required, in accordance with Chapter 721.
- (E) A set of Geographic Coordinates for each intersection, change in direction, or point of curve for the centerline of all regulated roadways and shared access driveways for the purpose of establishing “911” Street addresses within the Subdivision.
- (F) The following statement shall appear prominently on the Final Plat: ~~“In order to promote safe use of roadways and preserve the conditions of public roadways, no~~ No driveway constructed on any Lot within this subdivision shall be permitted access onto a public roadway unless:
  - (1) a Permit for use of the County Roadway Right-~~O~~of-~~W~~oay has been issued under Chapter 751; and,
  - (2) the driveway satisfies the minimum spacing requirement for driveways set forth in Chapter 721.”
- (G) Where required, the minimum driveway culvert size for each lot.

Comment [rm17]: This wording is unnecessary.

**§8.04. Water, Wastewater and Utilities Information**

- (A) The following statement shall appear prominently on the Final Plat: “No structure in this subdivision shall be occupied until connected to an individual water supply or state-approved community water system. Due to declining water supply, prospective property owners are cautioned by Hays County to question the seller concerning ground water availability. Rain water collection is encouraged and in some areas may offer the best renewable water resource.”
- (B) The following statement shall appear prominently on the Final Plat: “No structure in this subdivision shall be occupied until connected to a permitted sewer system or to an on-site wastewater system that has been approved and permitted by Hays County.”
- (C) Applicants that submit a Water and Wastewater Service Plan under Chapter 715, one of the following statements, utilizing the words “water”, “wastewater” or both, as required, shall appear prominently on the Final Plat:
  - (1) “The filer of this plat has submitted to the Department a Water and Wastewater Service Plan describing how [water] [and] [wastewater] service will be provided to this subdivision.”; or,
  - (2) “The filer of this plat has submitted to the Department a Water and Wastewater Service Plan describing how [water] [and] [wastewater] service will be provided to this

(3) No portion of the land subdivided under a plat approved under this Chapter is sold or transferred before January 1 of the 51st year after the year in which the plat was approved.

(B) The intent of establishing an expiration period for a Final Plat under this Section is to allow the County to enforce future minimum size, configuration and arrangement standards on lots within the expired Subdivision and is not intended to deprive the public of any use of dedicated public features within the expired Subdivision. Publicly dedicated features included in any Final Plat that expires under this Section shall remain subject to control by the County, including the ability to require a configuration on any subsequent plat for the affected property that accommodates at least the footprint of the public features included in the expired plat.

### ***Sub-Chapter 10 - Record Plat***

#### **§10.01. Submission of Record Plat to the Department**

Following approval of the Final Plat, the Applicant shall present a Record Plat to the Department for final approval and delivery to the County Judge for execution, in accordance with Chapter 701, Subchapter 12. The Record Plat shall contain, or be submitted with, the following:

- (A) All items required in Subchapters 5 and 8 above; ~~including filing fees and tax certificates; and,~~
- (B) Original signatures and original seals ~~and signatures~~ for licensed or registered professionals.

**Comment [RM18]:** The Department does not record final plats. Filing fees and tax certificates are not necessary for the Department to obtain signatures.

#### **§10.02. Filing with the County Clerk**

Final Plats that have been executed by the County Judge or the County Judge's designated representative may be presented to the County Clerk for filing in the County plat records, in accordance with Chapter 701, Subchapter 12.

#### **§10.03. Record Plat**

One (1) eighteen inch by twenty four inch (18" x 24") ~~signed paper or photographic mylar plat~~ shall be presented to the County Clerk for recording as the Record Plat. All writing and drawings on the Record Plat must be large enough to be easily legible following recording.

**Comment [RM19]:** Photographic mylars can no longer be produced. The Clerk's office has moved to a paperless plat filing system and has found that paper copies are more easily scanned and reproduced than any other medium.

### ***Sub-Chapter 11 - ~~Revision and Cancellation~~ Plat Revisions***

~~Sub-Chapter 11~~ This sub-chapter outlines the requirements and processes for plat cancellations, plat vacations, replats, and amended plats as authorized under Texas Local Government Code Sections 232.008, 232.009, and 232.0095.

**Comment [rm20]:** This sub-chapter has been modified to address the changes adopted by the Commissioners Court in June 2012.

#### **§11.01. Cancellation**

Any Application to cancel an existing plat ~~or any portion of an existing plat of a subdivision located outside of the extra-territorial jurisdiction of any municipality~~ shall be submitted and considered in accordance with Texas Local Government Code Section §232.008, which establishes, among other things:

**Comment [rm21]:** This clarifies that plat cancellations may only be approved for plats located outside of the ETJ of municipalities.

- (A) The Application shall be granted if it is shown that the cancellation of all or a part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation;
- (B) Notice of the Application must be published in English in the County for at least three weeks before action is taken on the application;
- (C) Upon Application of the owners of 75 percent of the property included in the subdivision, phase or identifiable part, the Commissioners Court shall authorize the cancellation upon notice and hearing as required under Texas Local Government Code Section §232.008, provided that if the owners of at least 10 percent of the property affected file written objections with the Commissioners Court, the grant of an order of cancellation is at the discretion of the Commissioners Court; and,
- (D) Establishing a certain private action for damages against the Applicant for persons who protest unsuccessfully against a cancellation application. In the event of any conflict or inconsistency between the summary set forth above and the actual terms of Texas Local Government Code §232.008, as amended, the terms of the Texas Local Government Code shall control in all respects.

**§11.02. Plat Vacation**

Any application to vacate an existing plat or any portion of an existing plat of a subdivision located within the extra-territorial jurisdiction of any municipality shall be submitted and considered in accordance with Texas Local Government Code Section 212.013.

**Comment [rm22]:** Plat Vacation is an alternative procedure to plat cancellation. This procedure applies to subdivisions located within the ETJ of a municipality.

~~§11.02.~~**§11.03. Revision/Replats**

The Owner of an existing Llot or Llots in a platted Subdivision may submit an application to revise the portion of the existing plat affecting replat such Lots, unless prohibited by plat notes filed pursuant to these Regulations, by submitting the following to the Department:

- (A) The general information required by Chapter 701, Subchapter 12 and Subchapter 4 of this Chapter;
- (B) A copy of all existing recorded plats affected by the proposed revision;
- (C) Six (6) eighteen inch (18") by twenty four inch (24") hard copies of the proposed revised plat, conforming in all respects to the requirements of these Regulations;
- ~~(D) If the proposed revision is being submitted by a private homeowner who is not a developer in the Ssubdivision, other materials acceptable to the Director clearly setting forth the desired revision may be substituted for items (A) through (C), above;~~
- ~~(D)~~ A statement giving the reason for the proposed revision;
- ~~(E)~~ A filing fee as established by the Commissioners Court;
- ~~(G) Any revision for the purposes of adjusting lot lines, or the consolidation of Llots may with the concurrence of the Precinct Commissioner be allowed to submit a Final Plat Application only, without the need to submit a Preliminary Plan; and,~~
- ~~(H) Minor revisions and Llot line corrections to previously platted Llots that do not change the total acreage of any affected Llot by more than ten percent (10%) of its original acreage may be approved administratively by the Department. The Department shall prepare a written review~~

**Comment [RM23]:** Due to the addition of the amended plat section below, this is no longer relevant.

and recommendation for signature to the County Judge for all revisions approved administratively.

**Comment [RM24]:** Minor revisions and lot line corrections are processed via Amended Plats as described below. Amended plats may be approved administratively by the Department.

#### **§11.04. Amended Plats**

- (A) An application to amend any portion of an existing subdivision plat shall be submitted and considered in accordance with Texas Local Government Code Section 212.016. The following shall be submitted with the application to amend the plat:
- (1) The general information required by Chapter 701, Subchapter 12 and Subchapter 4 of this Chapter;
  - (2) A copy of all existing recorded plats affected by the proposed revision;
  - (3) Six (6) eighteen inch (18") by twenty four inch (24") hard copies of the proposed amended plat, conforming in all respects to the requirements of these Regulations;
  - (4) A statement giving the reason for the proposed revision;
  - (5) A filing fee as established by the Commissioners Court;
- (B) Applications for plat amendments are exempt from written, published, and posted notice requirements.
- (C) An amended plat may not be utilized to create new lots unless those parcels have been taxed independently for ten (10) or more years.

#### **§11.03, §11.05. Criteria for Approval**

The Commissioners Court may approve an application to revise a Subdivision upon a finding that:

- (A) The revision will not interfere with the established rights of any owner of a part of the subdivided land; or each owner whose rights may be interfered with has agreed to and signed the revised plat; and
- (B) The plat as revised conforms to the requirements of the Regulations.

#### ***Sub-Chapter 12 - Public Notice***

#### **§12.01. Applicant Sponsored Public Meeting**

As required under Chapter 701, Subchapter 10, for those Applications where the Subject Property encompasses fifty (50) or more acres; or the ultimate plan for development of the Subject Property will result in fifty (50) or more individual dwelling units, the Applicant is required to conduct a public meeting. Applicants for all other types of Applications are also encouraged to conduct public meetings. When public meetings are held in conjunction with Applications filed under these Regulations, the public meeting shall be conducted in accordance with Chapter 701, Subchapter 10.

#### **§12.02. Notice Required**

Except as exempted under ~~§705.42-0711.04~~, below, all Applications seeking approval from the County for a Preliminary Plan or Final Plat shall be required to notify the public using posted notice, written notice, and published notice. For Applications where the Final Plat is submitted

prior to the expiration of the Preliminary Plan in accordance with §705.7.04, the notices issued for the Preliminary Plan shall satisfy the notice requirements for the Final Plat. On a case by case basis the Department may request that the Commissioners Court wave notice requirements for Subdivisions of six (6) Lots or less with existing water and wastewater service.

**§12.03. Posted Notice**

The Applicant shall be required to notify the public upon submission of an Application under this Chapter, including Applications for new Subdivisions and Applications for revision or ~~cancellation~~ of an existing Subdivision plat, in accordance with the requirements for Posted Notice in §701.9.04. The signs shall contain the following header text:

NOTICE OF APPLICATION TO SUBDIVIDE

The signs shall contain the following notice text:

An application has been filed with HAYS COUNTY to subdivide this property.  
Information regarding the application may be obtained from:

This text shall be followed with the name and contact information of the Department and the tracking number assigned by the Department to the Application.

**§12.04. Written Notice for New Subdivisions**

The Applicant shall be required to notify affected political Subdivisions and owners of Contiguous Property ~~upon~~ prior to submission of an Application under this Chapter in accordance with the requirements for Written Notice in §701.9.05. In addition to the items required under §701.9.05, the written notice must include, at the minimum, the following information:

- (A) The total area of the proposed Subdivision and the number of platted Lots included in the Subject Property;
- (B) The anticipated timetable for build-out of the Subdivision and any anticipated subsequent phases of development, including an estimated population for each phase and at full build-out; and,
- (C) A statement of how water, wastewater, emergency services, and electric service will be provided, including identification of all such proposed utility providers.

**§12.05. Published Notice for New Subdivisions**

Upon submittal of an application for a New Subdivision the applicant shall publish notice in a newspaper of general circulation in the county for two (2) consecutive weeks. To document publication of the required notice, the person having such notice published shall submit an original, signed publisher's affidavit demonstrating actual publication.

**~~§12.05.~~ §12.06. Written Notice for Resubdivision or Cancellation Revised Plats**

Except as noted below, an Applicant Application for revision or ~~cancellation~~ of an existing Subdivision plat shall be required to notify ~~all owners~~ all owners of contiguous properties within the original Subdivision by certified or registered mail, ~~return receipt requested in accordance~~ addition to with the requirements for Written Notice in §701.9.05. In addition to the items

**Comment [RM25]:** The following sections were modified/added to clarify the notice requirements for new subdivisions and replats.

**Comment [RM26]:** Plat revisions under TLGC 212 required notification of the entire subdivision via certified mail with return receipt. Replats under TLGC require that only the adjoining property owners be notified.

required under §701.9.05, -the written notice must include, at the minimum, the following information:

- (A) For ~~Replat Applications involving revision of an existing subdivision plat~~, a detailed description of the proposed revision to the plat.
- (B) For Applications involving cancellation or vacation of an existing Ssubdivision plat, a statement that an Application has been filed requesting that the County cancel and vacate the plat and any associated Development Authorizations.

**~~§12.06.~~§12.07. Published Notice for Revision or Cancellation Revised Plats**

After the date the Department posts the ~~revision~~ Revision, or cancellation Cancellation, or Vacation of an existing Ssubdivision plat for consideration by the Commissioners Court, but before the application is considered by the Court, the Applicant shall have published all notices required by Texas Local Government Code Sections ~~§232.009~~ 232.008, 212.013, 212.014 and 212.015, including a notarized publisher's affidavit demonstrating publication of the application in a newspaper of general circulation in the area affected by the resubdivision, including a statement of the time and place at which the Commissioners Court will meet to consider the application and hear protests, if any. ~~As required by Texas Local Government Code Section §232.009, the notice shall be published three (3) times during the period beginning on the 30th calendar day and ending on the 7th calendar day prior to the date of the Commissioners Court hearing.~~ The Published Notice shall be completed in accordance with the requirements for Published Notice in Chapter 701.

**Comment [RM27]:** The notification period for replats is shorter than the period for revised plats. This section has been changed accordingly.

**~~§12.07. Exemption from Notice for Certain Revisions~~**

If written concurrence with the proposed revision is obtained from all property owners affected by the revision and submitted to the Department, Applications for the following specific types of revisions shall be exempt from the notification requirements outlined above:

- (A) — Revisions for the purposes of minor lot-line adjustments or corrections; or,
- (B) — Revisions involving the consolidation of two or more lots.

**Comment [RM28]:** The applicable portions of this section are mentioned in previous sections of this chapter.

*Sub-Chapter 6 - Transportation Planning*

**§6.01. Right-of-Way Dedication**

An application for a Development Authorization under these regulations, including subdivision plats and manufactured home rental communities, shall be required to dedicate right of way in accordance with the currently adopted Hays County and Capital Area Metropolitan Planning Organization Transportation Plans.

**Comment [RM29]:** This Sub-chapter has been added to allow the Department to require right-of-way dedication in accordance with the Hays County and CAMPO Transportation Plans.



- (B) By submitting Construction Plans for public infrastructure, the Applicant is acknowledging that they are aware of and is representing that the Permittee will comply with all requirements of Hays County regarding construction and development in effect at the time the Application was submitted, including:
- (1) the requirement regulating the access of private construction vehicles from construction sites onto existing Public roadways, requiring the Permittee to take certain steps to limit and clean all mud or other debris carried onto the public roadways by such construction vehicles and imposing fines for non-compliance;
  - (2) ~~The~~ requirements: a) that a permit be obtained prior to commencement for all construction within County right-of-way, including driveways, utilities and storm water management improvements and the cutting of any existing roadways for installation of utilities, b) that the work be inspected prior to completion, c) prohibiting cutting of certain roadways within three (3) years of construction thereof; and, d) imposing fines for non-compliance;
  - (3) ~~The~~The requirement concerning construction standards for structures projecting above the ground surface (including mailboxes, signs, etc.) installed within the right-of-way of public roadways and requiring all such structures to be made of break-away or collapsible materials, as defined by the Department, unless those structures are located along internal subdivision roads with speed limits of 30 MPH or less or non-thoroughfare roadways with speed limits of 30 MPH or less; and,
  - (4) ~~The~~ requirement to comply with all construction standards and specifications adopted by the Department, as outlined in Chapter 799.;
- (C) The Department shall review the construction plans and cost estimates for public infrastructure submitted by the Applicant. If the Department determines that the construction plans and cost estimates comply with these Regulations, the Department shall issue a written approval of the construction plans and cost estimates. This written approval shall indicate that it is an approval of the design and construction methods only and that it is not an approval of the entire Application with which it was submitted. If the Department determines that the construction plans and cost estimates are not in compliance with these Regulations, the Department shall issue a written request for information identifying those items the Department believes are not in compliance with these Regulations, and requesting that the construction plans and/or cost estimates be revised and re-submitted.

## §2.02. Interim Authorization for Construction

The following requirements shall apply to public infrastructure for which interim authorization for construction is sought prior to issuance of a Development Authorization by the County:

- (A) An applicant wishing to construct public infrastructure prior to the issuance of a Development Authorization by the County shall submit a written request for interim authorization for construction. This written request shall include the project information for the original Application and shall indicate the proposed public infrastructure for which the Applicant is seeking interim authorization to construct. This request may be granted by the Department based on the Department's review and approval of the

## CHAPTER 744 - MANUFACTURED HOME RENTAL COMMUNITIES

### *Sub-Chapter 1 - Applicability*

#### **§1.01. General Requirements**

This Chapter shall govern the issuance of Development Authorizations for Manufactured Home Rental Communities within the County.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 231, 232 and 234.

#### **§1.03. Approval Required Prior to Construction**

Development, including any associated construction of a Manufactured Home Rental Community (MHRC) may not begin before a Development Authorization has been issued by the County. These regulations apply to a manufactured home rental community for which construction is commenced on or after the effective date of these Regulations. Development Authorization for Manufactured Home Rental Communities shall be issued in the form of a Development Authorization.

#### **§1.04. Approval Required Prior to Furnishing Utility Service**

A utility may not provide utility services, including water, sewer, gas, and electric services to a manufactured home rental community subject to a development authorization until the Development Authorization is issued by the Department.

### *Sub-Chapter 2 - Exemptions and Registration*

#### **§2.01. Exempted Manufactured Home Rental Communities**

The following Manufactured Home Rental Communities are exempted from the requirements of this Chapter, ~~except for the requirement to register~~, as outlined below:

- (A) Manufactured Home Rental Communities consisting of four (4) or fewer spaces or lots;
- (B) Manufactured Home Rental Communities consisting of five (5) or fewer spaces or lots each of which is occupied by an individual who is related to the owner of the Manufactured Home Rental Community within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code. If any space or lot is subsequently offered for rent or lease to the public or is occupied by persons at least one of which is not related to the owner within the third degree by consanguinity or affinity, the requirements of this Chapter apply; or,
- (C) Manufactured Home Rental Communities consisting entirely of individual lots or spaces which are ten (10) acres or larger.

Exempted Manufactured Home Rental Communities must have direct access to a public roadway.

#### **§2.02. Registration**

All exempt Manufactured Home Rental Communities shall register with and submit the following to the Department:

**Comment [RM30]:** Exempted Manufactured Home Rental Communities will no longer be required to register

- (A) ~~A duplicate copy of the recorded conveyance instrument, with legible metes and bounds description attached thereto;~~
- (B) ~~A survey or sketch (which may be on tax parcel maps or other form approved by the Department) showing the boundaries of the spaces or lots, adjacent roads and adjacent property owners;~~
- (C) ~~An executed registration Application in the form promulgated by the Department; and,~~
- (D) ~~An affidavit stating that the owner of the Manufactured Home Rental Community acknowledges that any change in the exemption status may make the Manufactured Home Rental Community subject to this Chapter.~~

### **§2.03. Acknowledgement of Registration**

~~Upon the receipt of a Registration for an Exempt Manufactured Home Rental Community, the Department shall issue a written acknowledgement to the person filing the registration. This written acknowledgment shall reference the acknowledgements made on the registration form and the affidavit required under 745.2.02(D), and shall indicate that any changes in the exemption status may make the Manufactured Home Rental Community subject to this Chapter.~~

## ***Sub-Chapter 3 - Application Procedures***

### **§3.01. General Requirements and Application Procedures**

Applications to the Commissioners Court for approval of a Manufactured Home Rental Community pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapters 701 and 711 of these regulations.

### **§3.02. Fees**

Fees for Applications for Manufactured Home Rental Communities shall be based on the number of lots or rental spaces and shall be as established by the Commissioners Court. Application Fees may include a minimum review fee in addition to the fee per lot.

### **§3.03. Additional Application Information**

In addition to the items required to be submitted in accordance with Chapters 701 and 711, all Applications for approval of a Manufactured Home Rental Community pursuant to these Regulations, including amendments or supplemental materials, shall be delivered to the Department and shall also include the name of the proposed Manufactured Home Rental Community.

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

The Applicant or the Applicant's authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed Manufactured Home Rental Community is located prior to the submission of the Application.

### **§3.05. Supplemental Information**

In addition to the items required to be submitted with the Application in accordance with Chapters 701 and 711, each Application for a Manufactured Home Rental Community shall be supplemented with the following information:

authorization for use of County facilities or properties shall be required to provide record documents to the County for all County property and/or facilities utilized.

### *Sub-Chapter 2 - Types of Approvals Authorized*

#### **§2.01. Minor Permit**

Activities which are generally small and routine in nature may qualify for a minor permit. Activities authorized through a minor permit must comply with all established requirements and guidelines. The following activities are specifically recognized as qualifying for a minor permit, if they are in compliance with the conditions stated:

- (A) The installation of mailboxes and/or an address signs along a public roadway, provided that all items projecting above the ground surface along a collector-type roadway are constructed of “break-away” or collapsible materials, as defined in standards published by the Department;
- (B) The installation of individual driveways in public roadways to allow access to previously platted lots or to a single commercial or institutional activity on its own tract, if not on a previously platted lot, provided that the installation complies with standards published by the Department;
- (C) The installation of individual mailboxes, signs, communication antennas fastened to existing structures or other related items located on County property that is not within a public roadway;
- (D) The installation of donated public amenities in a dedicated park; and,
- (E) The installation of memorials, monuments or other related items located on County property that are not within a public roadway.

**Comment [RM31]:** This qualifier has been added to allow for the construction of non-breakaway mailboxes and address signs in the right-of-way

#### **§2.02. Permits Other than Minor Permits**

Activities that do not qualify for a minor permit, as described above, are required to undergo site development review and obtain a permit under the review process outlined in Chapter 711. The following activities are specifically recognized as requiring a permit under the review process outlined in Chapter 711:

- (A) The installation of mailboxes, signs, and other related items in public collector-type roadways if such items projecting above the ground surface are not constructed of “break-away” or collapsible materials;
- (B) The installation of multiple driveways in public roadways to allow access to a previously platted lot or tract;
- (C) The installation of utility lines on, in, above or under public roadways; and,
- (D) The installation of communications equipment not fastened to existing structures or other related items located on County property that is not within a public roadway.

#### **§2.03. Incorporation into Other Types of Permits**

The County may authorize the use of designated County properties or facilities in conjunction with any other type of Development Authorization issued, provided that such other Development Authorization undergoes the same or more stringent review than required by this Chapter.

Changes to Hays County On-Site Sewage Facility Rules

New Page #	Old Page #	Affected Section	Notes
2	2	Section 6 (A)	The "Area of Jurisdiction" section has been modified per TCEQ's request.
	3	Section 10 (A)(2)	The definition of "Qualified OSSF Inspector" has been deleted.
4	12	Section 10 (C)(1)	A statement from Section 10.H(1) was moved to this section to clarify that only compliant lots are eligible for permits.
	6	Section 10 (C)(2)	A statement regarding facility planning has been deleted. The requirements are covered in the subsequent section.
10	10	Table 10-2	Separation distances from vegetable gardens and orchards have been qualified so that they are applicable only to produce which is intended for sale. TCEQ rules state that effluent cannot be sprayed on crops for human consumption. Additionally, the separation distance between habitable structures and sub-surface drainfields has been removed.
10	10	Section 10 (F)	Modifications were made to the section regarding sanitary well easements in order to clarify requirements.
4	12	Section 10 (H)(1)	Moved to Section 10.C(1)
	13	Section 10 (J)(8)	A statement regarding load calculation has been removed. It is covered in Section 10.M(1).
12	13	Section 10 (K)(1)	Modifications were made to the section regarding the timeline for registration of on-site sewage facilities.
13	Section 10 (M)(1)(B)		Multi-family OSSFs will now be required to utilize flow equalization, per recommendation of TCEQ
13	14	Section 10 (M)(1)(B)	75% of one day's flow is now the required capacity for flow equalization tanks, rather than 100%
13	14	Section 10 (M)(1)(B)	Flow equalization is no longer required with standard treatment systems, so long as the system is oversized by 25%.
	14	Section 10 (M)(2)(B)	A requirement regarding devices has been removed. It is now covered under TCEQ rules.
14	14	Section 10 (M)(2)(C)	Sizing requirements for aerobic treatment unit trash tanks have been modified.
	15	Section 10 (Q)(6)	Separation distances from vegetable gardens and orchards have been removed. TCEQ rules now cover this requirement.

16	Section 10 (Q)(6)	The requirement for sprinkler head protection devices has been removed.
15	16 Section 10 (Q)(7)	A qualifier has been added to allow surface application for small commercial or institutional operations.
	16 Section 10 (Q)(8)	A requirement regarding devices has been removed. It is now covered under TCEQ rules.
15	18 Section 10.T (NEW)	Requirements regarding access to tanks has been moved from "Miscellaneous" to its own section to clarify that it is a modification of a newly adopted TCEQ regulation.
16	16 Section 10 (U)(1)	A qualifier has been added to allow property owners options in training in order to maintain their own OSSFs
16	17 Section 10 (U)(6)	Requirements regarding renewal maintenance contracts were moved to a new section.
17	18 Section 10 (V)(3)	French drains may now be designed by both professional engineers and registered sanitarians.
	19 Section 10 (W)(2)	The requirement to have OSSFs reinspected upon sale of property has been removed.
18	19 Section 12	Changed Texas On-Site Wastewater Treatment Research Council to Texas Commission on Environmental Quality as the collector of state fees.

**Section 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT.**

The County of Hays, Texas, clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities and will fully enforce Chapter 366 of the THSC and Chapters 7 and 37 of the Texas Water Code (TWC) and associated rules referenced in Section 8 of this Order.

**Section 6. AREA OF JURISDICTION.**

A. This Order shall apply to all areas lying within Hays County, Texas, except for the areas regulated under an existing Order, Ordinance, or Resolution ~~any OSSF in Hays County, Texas, that is located in the following regulated areas:~~

- ~~1. The OSSF is located outside the extra-territorial jurisdiction of any municipality;~~
- ~~2. The OSSF is located within the extra-territorial jurisdiction, but outside the incorporated limits of a municipality with whom the County does not have an inter-local agreement for the County to serve as the OSSF authorized agent;~~
- ~~3. The OSSF is located within the jurisdictional limits (either incorporated limits or ETJ) of a municipality that has executed an agreement with Hays County, Texas, for the County to serve as the OSSF authorized agent for that municipality.~~

~~This Order shall not apply to any OSSF in Hays County, Texas, that is within an area regulated under an existing program under TCEQ delegation, including areas within incorporated cities.~~

**Comment [rm1]:** Changed per TCEQ request dated 10-6-2011.

B. Regulated OSSF.

This Order shall apply only to on-site sewage disposal facilities in Hays County that are considered to be regulated OSSFs, meeting the following criteria:

1. The OSSF does not treat or dispose of more than 5,000 gallons of sewage each day; and,
2. The OSSF is used only for the disposal of sewage produced on a site where any part of the system is located.

On-site sewage disposal facilities that do not qualify as regulated OSSFs in Hays County, Texas, are under the exclusive jurisdiction of the Texas Commission on Environmental Quality.

**Section 7. ON-SITE SEWAGE FACILITY RULES.**

Approval of the County is required prior to the construction, alteration, or modification of

an OSSF unless excluded or exempted under State law or this Order. Any permit issued for an on-site sewage facility within the jurisdictional area of Hays County, Texas, must comply with the Rules adopted in Section 8 of this Order.

**Section 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.**

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for on-site sewage facilities, are hereby adopted, and all officials and employees of Hays County, Texas, having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

**Section 9. INCORPORATION BY REFERENCE.**

The Rules, 30 TAC Chapter 30, Subchapters A and G, and Chapter 285, and all future amendments and revisions thereto, are incorporated by reference and are thus made a part of these Rules.

**Section 10. AMENDMENTS.**

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

**A. Definitions.**

The following terms shall have the corresponding meaning:

1. Dwelling Unit Equivalent – An estimated quantity of wastewater from a non-residential source that is equivalent to that generated from a three (3) bedroom residential dwelling unit, or 300 gallons per day, whichever is greater.
2. ~~Qualified OSSF Inspector – An individual with a current license from the TCEQ as an Installer or a Maintenance Provider, as those terms are defined under 30 TAC Chapter 285 who also holds a current National Association of Wastewater Transporters (NAWT) or National Sanitation Foundation (NSF) certification as an on-site sewage facility inspector within one year of the effective date of these rules. Texas licensed professional engineers and Texas registered sanitarians may also inspect existing OSSFs, subject to the requirements of 30 TAC Chapter 285.~~
3. ~~2. Department – Hays County Development Services Division~~
4. ~~3. Groundwater Supply System – Any water supply system that obtains greater than one-third of its overall supply from Groundwater. This classification of water supply systems is further subdivided into Public Groundwater Supply Systems and Private Groundwater~~

**Comment [rm2]:** The portion of the rules which this applies to has been deleted.



The term “Conventional System” means on-site sewage facilities, including septic tanks, sewage holding tanks, treatment tanks and all other such facilities and systems consisting of a standard treatment system, as defined under 30 TAC §285.32(b), and an effluent dispersal system that does not use a pressurized method to uniformly distribute effluent over the entire disposal/dispersal area, and managing no more than 5,000 gallons of sewage per day.

3. Advanced System (Hays County definition)

The term “Advanced System” means an on-site system of sewage treatment and disposal other than a conventional system, and includes an intermittent sand filter , a proprietary treatment system, as defined under 30 TAC §285.32(c), a non-standard treatment system, as defined under 30 TAC §285.32(d), other secondary treatment systems, or a standard treatment system followed by a dispersal system that uses a pressurized method to uniformly distribute the effluent over the entire disposal/dispersal area.

### C. Wastewater Service Availability

1. Permits. The Department shall issue no On-Site Sewage Facility or development permit on any parcel of land unless that property is in compliance with all the requirements of these Regulations. Only lots platted in accordance with these Regulations or any prior regulations of Hays County or legally in existence prior to the Effective Date of this Order will be eligible for a permit.
2. ~~Developments to be served by On-Site Sewage Facilities. Applicants proposing to serve a development by On-Site Sewage Facilities shall submit a design report sealed by a Texas licensed professional engineer or a Texas registered sanitarian describing how the proposed development will be provided with wastewater service.~~

**Comment [rm3]:** Cut and pasted from Section 10.H(1), below.

**Comment [rm4]:** This item is covered in Section 10.D, below.

### D. Facility Planning

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

1. Land Planning, Site Evaluation and Minimum Lot Sizing. The following requirements shall apply to all lots on which an OSSF is to be utilized:
  - A. A platted or unplatted single family residential lot shall have a surface area of at least the acreage designated in Table 10-1 below.
  - B. Small Multi-Unit Residential Developments. Multi-unit residential developments with four or fewer individual dwelling units, including duplexes, may utilize lots smaller than the acreages set forth in Table 10-1, provided:
    - i. site specific evaluation materials, for a central system or individual systems, are prepared by a Texas licensed professional engineer or a Texas

**Table 10-2 – Minimum Receptor Separation Distances (in Feet)**

Features/Receptors	OSSF Component	Distance (ft)
Barton Creek, Bear Creek, Blanco River, Cottonwood Creek, Cypress Creek, Little Bear Creek, Lone Man Creek, Long Branch, Onion Creek, Purgatory Creek, Roy Creek, San Marcos River, Sink Creek, Smith Creek, Willow Creek, and Wilson Creek (measured from the bank at average pool height)	Effluent dispersal areas	150
Property lines, habitable structures, and vegetable gardens or orchards producing food intended for sale and human consumption	Surface Application Areas	40 (See Table 10-3)
Property lines, habitable structures and vegetable gardens or orchards producing food intended for sale and human consumption	Individual Sprinkler Heads of Surface Application Areas	60 (See Table 10-3)
Property lines habitable structures and vegetable gardens or orchards producing food for human consumption	Effluent dispersal areas*	20
Any public or private water wells	Sewer Pipe with water-tight joints	20
Any public or private water wells	Tanks	50
Any public water wells	Effluent dispersal areas	150
* Drip irrigation dispersal areas with $\leq 1$ Ra will have separation distances as set forth in Table X of the TCEQ Rules (specifically 30 TAC §285.91).		
<b>NOTE:</b> Lots platted prior to the effective date of these regulations shall comply with either the minimum separation distances that were in effect at the time the lot was created or the minimum separate distances contained in the TCEQ Rules, whichever is more stringent.		

**Comment [rm5]:** TCEQ rules now state that effluent cannot be sprayed on land used for growing crops or food for human consumption. The "intended for sale" qualifier allows property owners to use their own judgment to determine the layout of private gardens but will ensure that adequate setbacks are met if the produce is going to be sold to the public.

**Comment [rm6]:** This separation distance is unnecessary for sub-surface drainfields.

**F. Water Well Sanitary Easements.**

1. Private Wells are to be located with a one hundred (100) foot radius around the well in which no on-site sewage effluent dispersal facility may be located. This area shall be designated as a private water well setback and shall be clearly shown and labeled on any planning material submitted to the Department in support of an application for an on-site sewage facility permit. If the well is located within the jurisdiction of a groundwater conservation district that requires greater than a 100 foot separation, the Private Well setback distance must be increased to the distance required by that groundwater conservation district. This setback distance shall also be shown for existing water wells in or adjacent to subdivision proposals. Variances from the Private Well setback requirement will be considered if the Private Well has been or will be completed in accordance with requirements outlined in the Water Well Drillers and Water Well Pump Installers Rules under 16 TAC Chapter 76, or the applicable rules of the groundwater conservation district that has jurisdiction over the area where the Private Well and the on-

**Comment [rm7]:** Cut and pasted from below.

site sewage facility are located. In no case shall the Private Well setback distance be less than 50 feet. ~~If the well is located within the jurisdiction of a groundwater conservation district that requires greater than 100 foot separation, the Private Well setback distance must be increased to the distance required by that groundwater conservation district. This setback distance shall also be shown for existing water wells in or adjacent to subdivision proposals.~~

**Comment [rm8]:** This is repeated above.

2. Individual Lots where there is a known or recorded public water supply well or individual lots which adjoin a lot or tract containing ~~either a public or private water supply well~~ shall provide, within the boundary of the Lot on which the OSSF is to be placed, adequate separation to ensure a minimum of a one hundred fifty (150) foot radius around the water supply well in which no OSSF effluent disposal facilities may be located. ~~For public water supply wells, this~~ This area shall be designated as a water well sanitary control easement. For private water supply wells, this distance can be the same as the separation distances required in Section 10.F (1).
3. Public Water Wells shall comply with the sanitary control easements required under 30 TAC Chapter 290, as amended.

**Comment [rm9]:** This section was in conflict with the section above. It has been modified accordingly.

### G. Innovative Development

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

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

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

### H. Variances.

Requests for variances from the requirements of these rules shall be considered in accordance with the criteria specified in 30 TAC §285.3(h) of the TCEQ's Rules and the following additional criteria:

~~1. Only lots platted in accordance with these Regulations or any prior regulations of Hays County or legally in existence prior to the Effective Date of this Order will be eligible for a variance;~~

~~2.1. The Commissioners Court may delegate to the Department the discretion to approve or deny an application for a variance. Within that discretion, the Department may approve an application for a variance only upon a finding that development pursuant to the proposed variance will provide equivalent protection of the public health and environment as development in strict accordance with these Regulations in general.~~

**Comment [rm10]:** Cut and pasted to Section 10.C(1), above.

#### **I. Permitting Procedures and Additional Requirements**

The Hays County Commissioners Court and/or the Department may from time to time adopt local procedural requirements for applications, permitting and inspections for On-Site Sewage Facilities.

#### **J. Amendment to Section 285.5 (Submittal Requirements for Planning Materials)**

The following requirements for the submission of planning materials are imposed in addition to those set forth in Section 30 TAC §285.5:

1. All site plans shall be submitted to a standard engineering scale and shall include an overall site plan drawn on a single sheet of paper, providing the exact placement of all existing and proposed development, wells (including wells on adjacent property), driveways, and all wastewater system components and showing features that require minimum separation distances and topographic lines at one foot intervals in the area of the proposed OSSF and extending twenty five (25) feet past OSSF location.
2. A flow diagram of the tank battery shall be prepared.
3. An installation detail for subsurface systems shall be provided.
4. Detail all calculations for determining hydraulic loading, wastewater strength, sizing of system components, total head, dosing volume, pump tank sizing and reserve capacity.
5. The disposal method for any OSSF designed for multi-family residences or for commercial/ institutional or nonresidential uses with wastewater flows over 500 gallons per day must include properly designed pressurized distribution that assures uniform distribution of effluent.
6. Plugging reports for any wells proposed to be abandoned shall be provided.

7. The OSSF designer shall establish the design flow for all OSSFs based on the information contained in Table III from 30 TAC §285.91(3), or other valid technical sources acceptable to the Department.

~~8. Calculations for hydraulic and organic load for both normal and peak flows on all OSSFs other than single family residential shall be provided showing that both organic and hydraulic overloading of the treatment and/or disposal method is prevented.~~

~~9.8.~~The Department may require additional planning materials if in its opinion they are warranted for the specific instance.

**Comment [rm11]:** This is further clarified in Section 10.M (1), below.

**K. Amendment to Section 285.7 (Additional Requirements for Surface Application Systems)**

1. In addition to the permits issued for installation, annual registration is required to operate an On-Site Sewage Facility utilizing surface application or an OSSF that requires a maintenance contract under TCEQ Regulations (30 TAC §285) or these Regulations. The Owner of the On-Site Sewage Facility shall be responsible for processing a renewal application for the renewal of the registration prior to the expiration date of the current registration. The registration fee amount shall be in accordance with the current fee schedule adopted by Commissioners Court. The fee shall be paid at the time of contract submittal; ~~prior to the commencement of the initial maintenance contract, the registration application and fee and shall be due annually on the same date, January 1<sup>st</sup>, and shall be late if paid on or after February 1<sup>st</sup>. Fees for partial years shall be prorated. Registration fees received late shall pay late renewal fees in accordance with the current fee schedule adopted by Commissioners Court.~~

2. In addition to the maintenance requirements of the TCEQ Regulations (30 TAC §285), the County specifically prescribes that all maintenance activities on OSSFs be performed only by individuals and firms licensed by the TCEQ to perform maintenance on OSSFs, as discussed in this order.

3. The following requirements for all maintenance contracts are imposed in addition to those set forth in the TCEQ Regulations [specifically 30 TAC §285.7(c)]. All maintenance contracts shall include the following information: permit number; on-site sewage facility maintenance provider/company or wastewater operator license identification; the printed name and signature of the system owner and maintenance company representative; the starting and ending dates of the contract with the starting being the date of the notice of approval to operate; the physical address and phone number of the system location; and the physical address, business address, business phone number and emergency phone number of the maintenance company.

**Comment [rm12]:** Upon implementation of the OSSF Registration program, it became apparent that minor changes were needed in order to simplify the process. By changing the date that the annual fee is due to the anniversary date of the contract, Development Services staff is more easily able to track the registration.

**L. Amendment to Section 285.7(e)(2) (Weather Resistant Tags)**

The following requirements for weather resistant tags are imposed in addition to those set forth in the TCEQ Regulations [specifically 30 TAC §285.7(e)(2)]:

1. The weather resistant tags shall be approved by the Department in advance of their installation;
2. The maintenance company shall be responsible for submitting a sample tag to the Department for approval; and,
3. The tags shall be installed outside the control panel or treatment unit device.

**M. Amendment to Section 285.32 (Criteria for Sewage Treatment Systems)**

1. The following requirements for OSSFs other than residential OSSFs (non-residential OSSFs) are imposed in addition to those set forth in 30 TAC §285.32:

A. For Non-Residential OSSFs, the site specific evaluation materials, prepared by a Texas licensed professional engineer or a Texas registered professional sanitarian, must include hydraulic loading calculations and influent and effluent wastewater strength calculations.

B. Non-Residential OSSFs and multi-family OSSFs shall include a hydraulic equalization tank prior to the treatment system. The hydraulic equalization tank shall be designed with sufficient storage to ensure that there is at least 75% of one day's flow (at the average daily design flow) between the pump-on level and alarm activation level, and one-day's flow above the alarm activation level and below the inlet of the tank, unless duplex pumps are used and designed in accordance with 30 TAC §285.34(b)(3). The rate of flow from the hydraulic equalization tank into the treatment system shall be controlled to uniformly distribute the flow over a twenty four (24) hour period at a rate no greater than the maximum design capacity of the treatment system. In cases where Non-residential OSSFs are expected to have peak flows that exceed the average daily design flow, the Department will require an Applicant to submit calculations of sufficient storage in conjunction with the other Planning Materials required for the design of the system. Hydraulic equalization will not be required prior to standard treatment if the treatment system is at least 25% larger than required in 30 TAC §285.91 Table II.

**Comment [rm13]:** Multi-family on-site sewage facilities are subject to upsets in flow patterns similar to commercial on-site sewage facilities. Flow equalization in multi-family OSSFs will prevent glitches in the treatment process if all units have clothes-washing or bathing schedules that coincide.

**Comment [rm14]:** The size requirement of the equalization tank has been reduced. Because the equalization tank doses the treatment tank uniformly throughout the day, it is unnecessary to require 100% capacity.

2. The following requirements for proprietary treatment systems are imposed in addition to those set forth in ~~Section 30 TAC §285.32(c):~~

A. Proprietary Treatment Systems (including aerobic treatment units) used under service conditions different than which the approval was obtained shall be considered Non-Standard Treatment Systems.

B. ~~All disinfection devices must be listed by the NSF as having passed NSF/ANSI Standard 46 for effluent disinfection devices, or be manufactured or approved by the manufacturer of the treatment unit. Should the treatment unit be upgraded or altered, the disinfection device shall be re-evaluated and shall be upgraded, if necessary, to a~~

**Comment [rm15]:** Standard treatment is used for settling and separation and is not as sensitive to variations in flows as advanced or secondary treatment. Over-sizing of the treatment capacity will accommodate variations in flow.

device that meets the NSF/ANSI Standard 46 requirements, or to one that is manufactured by the manufacturer of the treatment unit.

**Comment [rm16]:** TCEQ rules now include this requirement.

~~C.B.~~ All aerobic treatment units (ATUs) shall be installed with a pre-treatment tank. The pre-treatment tank shall be sized at a capacity of at least one-half the average daily aerobic treatment unit design flow, but no greater than one full day's flow. The pretreatment tank shall be designed in accordance with the requirements of 30 TAC §285.32(b)(1)(G).

**Comment [rm17]:** Manufacturers do not make tanks small enough to allow for compliance with this rule.

~~D.C.~~ In order to maintain a stable temperature environment all aerobic treatment units shall be buried in the ground and backfilled to the lid of the tank.

#### **N. Amendment to Section 285.33 Criteria for Effluent Disposal Systems**

For all effluent disposal systems utilizing trenches or beds containing disposal media, the bottom of the excavation shall be level to within one inch over each 25 feet of excavation, but in no event shall there be more than two inches of fall over the entire length of the excavation. For the purposes of this amendment, gravelless drainpipe shall be required to meet this standard.

#### **O. Amendment to Section 285.33 (a)(1)(B) (Porous Media)**

Chipped tires or iron slag are not a permitted medium.

#### **P. Amendment to Section 285.33(c)(3)(E) (Vertical Separation Distance)**

The following requirement for vertical separation distance is imposed in addition to those set forth in Section 285.33(c)(3)(E): all drip irrigation disposal fields shall be covered with at least eight (8) inches of soil backfill of suitable composition to support vegetative growth.

#### **Q. Amendment to Section 285.33(d)(2) (Additional Requirements for Surface Application Systems)**

The following requirements are imposed in addition to those set forth in Section 285.33(d)(2) for an On-Site Sewage Facility utilizing surface application systems:

1. Surface application shall be limited to sprinkler application only.
2. All On-Site Sewage Facilities utilizing surface application shall be designed to facilitate periodic sampling.
3. The site for a surface application system shall be cleared of exposed rock, or the exposed rock shall be covered with at least four (4) inches of soil of suitable composition to support vegetative growth. Trees and shrubs must be maintained in order to allow the even distribution of effluent. Sprinklers need to be located at least 15 feet away from trees within the distribution area that are 24 inch or greater in diameter .

4. The individual sprinkler heads installed for a surface application area shall have a maximum operating height of twenty four (24) inches and a maximum operating pressure of forty (40) pounds per square inch. The receptor (property line, ~~or habitable structure, or vegetable garden or orchard producing food for human consumption~~) separation distance identified in Table 10-2 shall be modified as shown in Table 10-3.

**Comment [rm18]:** TCEQ rules now include this requirement.

**Table 10-3 – Receptor Separation Distances (in Feet) for Various Combinations of Application Radius (Reference Table 10-2)**

Operating Radius (ft)	Receptor Distance (ft)
≤25	40
>25-≤30	75
>30	90

5. The surface application area receiving effluent spray shall have a maximum surface slope of fifteen percent (15%) in any direction. Compliance with this requirement may be achieved through site modification activities such as terracing or grading, provided that the surface is sufficiently stabilized to minimize erosion.
- ~~6. Individual sprinkler heads shall be protected from damage by surrounding the heads with a concrete base or other structure acceptable to the Department.~~
- ~~7.6. Surface application systems shall not be allowed for commercial or institutional operations with a design flow over 300 gallons per day.~~
- ~~8. All disinfection devices must be listed by the NSF as having passed NSF/ANSI Standard 46 for effluent disinfection devices. Should the treatment unit be upgraded or altered, the disinfection device shall be re-evaluated and shall be upgraded, if necessary, to a device that meets the NSF/ANSI Standard 46 requirements.~~

**Comment [rm19]:** Upon implementation, the Department found this requirement to be difficult to enforce.

**Comment [rm20]:** The department has found that commercial systems with flows less than 300 GPD function much like single family residential systems. Allowing surface application will result in a potential cost savings for prospective small business owners.

**Comment [rm21]:** TCEQ rules now include this requirement.

**R. Amendment to Section 285.34(a) (Septic Tank Effluent Filters)**

The following requirement for septic tank effluent filters is imposed in addition to those set forth in Section 285.34(a): the outlet pipe from all standard treatment units shall be fitted with an effluent filter.

**S. Amendment to Section 285.34(b)(2) (Pump Tank Sizing)**

Pump tanks shall be sized to contain one day of flow above the alarm-on level.

**T. Amendment to Section 285.38(c) (Prevention of Unauthorized Access to On-Site Sewage Facilities)**

All buried standard, non-standard and proprietary treatment compartments and pump tanks shall be provided with at least one at-grade riser that can be accessed without digging. The installed riser shall be water tight.

**Comment [rm22]:** Cut and pasted from Section 10.V(6).



**F.U. Amendment to Section 285.70(a) (Duties of Owners With Malfunctioning OSSFs)**

The following requirement for owners with malfunctioning on-site sewage facilities is imposed in addition to those set forth in 30 TAC §285.70(a): the owner of a malfunctioning on-site sewage facility can be given a deadline to initiate and complete repairs to the system of less time than stated in 30 TAC §285.70(a) if the Department believes there is an imminent threat to the public health or environment.

**H.V. Amendment to Section TAC 285.91(12) (OSSF Maintenance Contracts, Affidavit, and Testing/Reporting Requirements)**

1. The following requirement for maintenance by owners of on-site sewage facilities is imposed in addition to those set forth in 30 TAC §285.91(12) and as authorized under House Bill 2482, Texas Legislature, 80<sup>th</sup> Regular Legislative Session: all maintenance, testing and reporting activities conducted on OSSFs under the jurisdiction of Hays County shall be performed by a Maintenance Provider that possesses a current license with the TCEQ. This requirement is specifically adopted to preclude maintenance, testing, and reporting activities from being performed by an OSSF owner unless that OSSF owner ~~is also a licensed~~ has taken and passed the Texas Commission on Environmental Quality approved Basic Maintenance Provider course and test or other Authorized Agent approved course.

**Comment [rm23]:** This qualification has been added to offer more options to owners who are interested in maintaining their own systems.

2. Systems maintained by a maintenance provider shall be tested and reports submitted ~~reports~~ every four (4) months unless otherwise specified on the permit. The first maintenance testing and report submittal of each contract period shall be completed within fourteen (14) days of the start date of the contract. Subsequent testing and report submittal due dates shall be determined from the start date of the contract. The last testing and reporting shall be within 14 days of the end of the contract period.

Renewal contracts that are started with a provider other than the provider on the previous contract shall be for a term of at least one year and include four inspections including the initial inspection.

**Comment [rm24]:** Cut and pasted from Section 10 V(6), below.

3. Each maintenance provider having contracts in Hays County shall register with the Hays County Development Services Division. Maintenance provider registrations shall be effective from the date of registration to December 31<sup>st</sup> of the same year. Renewal maintenance provider registrations for the next year shall not be accepted before December 1<sup>st</sup> of the current year. New and renewal maintenance contracts will only be accepted from maintenance providers whose registration is current and in good standing. Maintenance provider registration shall be free of charge.
4. When an on-site sewage facility maintenance report is received by Hays County that indicates the system has less than the required chlorine residual, or is in any other way not functioning properly, the owner of the system shall insure that the system is brought into compliance, retested, and that another report is submitted to the owner and Hays

County within ten (10) days of the previous report. Such extra reports shall not alter or postpone the regular maintenance schedule.

5. Maintenance providers who fail to perform maintenance testing at the required intervals, mark an inspection tag, or submit a report on time two (2) or more times during any twelve (12) month period may have their registration suspended for up to one (1) year in addition to any other penalties that may apply. No new or renewal maintenance contracts will be accepted from a maintenance provider during the time their registration is suspended. Outstanding contracts from a suspended maintenance provider will be void and property owners will need to submit a new contract with a registered maintenance provider.

~~6. Renewal contracts that are started with a provider other than the provider on the previous contract shall be for a term of at least one year and include four inspections including the initial inspection.~~

~~7.6. Contract renewals with the same maintenance provider will not be accepted by the Division unless all of the maintenance reports from the previous contract period have been submitted.~~

**Comment [rm25]:** Cut and pasted to Section 10.V(2), above.

#### V.W. Miscellaneous

1. A permit will be required for all On-Site Sewage Facilities, regardless of the size of the lot or acreage onto which it is installed. A permit will not be issued for an On-Site Sewage Facility that is on a tract of land that is found to be in violation of the Hays County Development (Subdivision) Regulations. Any structure or property used for residential, institutional, or commercial purposes shall be connected to an On-Site Sewage Facility permitted by the Department or a centralized sewage treatment facility permitted by the Texas Commission on Environmental Quality.
2. A construction inspection of an On-Site Sewage Facility must be completed within 12 months from the date of issuance of an authorization to construct. Construction of an on-site sewage facility must be completed within 14 months of the date of issuance of an authorization to construct and within eighteen (18) months of the date of application for a permit.
3. French drains used to support and protect On-Site Sewage Facilities shall require that a professional engineer or registered sanitarian be upgradient of the On-Site Sewage Facility and shall be designed by a Texas licensed professional engineer to prevent groundwater from entering into the On-Site Sewage Facility. ~~An applicant desiring to install a French drain must demonstrate that its use will afford a greater level of public health by diverting groundwater away from the On-Site Sewage Facility.~~
4. Effluent holding tanks shall be authorized only for temporary use for 90 days, with one 90 day renewal. The permittee must provide metered water usage and pumping manifests.

**Comment [rm26]:** Currently, if a French drain is required in order to operate an on-site sewage facility, the property owner must hire an engineer separately from the system designer (which is frequently a registered sanitarian). Allowing sanitarians to design French drains will result in a potential cost savings for property owners.

5. Composting, incinerating, and “no water” toilets shall be permitted by the Department under these Rules. Planning material submitted shall clearly identify the type of toilet that will be installed and the site specific location of the proposed toilet. The permitted location shall be required to have hand-washing facilities utilizing potable water discharging to an OSSF. Public parks owned by a political subdivision shall be exempt from the hand-washing facilities requirement.

~~6. All buried standard, non-standard and proprietary treatment compartments and pump tanks shall be provided with at least one at-grade riser that can be accessed without digging. The installed riser shall be water tight.~~

**Comment [rm27]:** Cut and pasted to Section 10.T, above.

~~7.6.~~All commercial, institutional and non-residential on-site sewage facilities shall be equipped with a flow metering device capable of measuring and recording the average daily flow rate.

#### W. Grandfathering, Re-authorization and Re-permitting of Existing Systems

1. Grandfathering. An owner of an OSSF is required to comply with the permitting, installation and operational requirements of this order, or any other applicable requirements, in effect at the time the OSSF is installed. Routine maintenance and repairs to an OSSF shall be required to bring the OSSF into compliance with all such applicable requirements.

~~2. Re-Inspection by Qualified Inspector.~~

~~A. If there is a transfer of ownership of an OSSF, the new owner shall submit no later than five (5) days following the effective date of the ownership transfer the following information:~~

~~i. Documentation verifying that the OSSF septic tank has been pumped within the previous three years and showing the tank capacity and depth of sludge; and,~~

~~ii. A copy of an OSSF inspection report prepared by a Qualified OSSF Inspector which contains a verification by the inspector that the OSSF is functioning in compliance with the applicable OSSF requirements. The inspection report form must be pre-approved by the department.~~

~~B. Where the Qualified OSSF Inspector or the Department suspect that the effluent disposal/dispersal component(s) are not functioning as designed, the OSSF owner shall have an evaluation of the suitability of the soil profile and infiltration characteristics of the dispersal area performed by a TCEQ licensed site evaluator.~~

~~C. Based on a review of the above information and any other available information, the Department or the Commissioners Court may require that the OSSF be subject to re-permitting.~~

**Comment [rm28]:** Upon implementation, the Department found this requirement to be overly burdensome for new property owners. Additionally, by accepting/approving work performed by independent inspectors (whose own quality control standards may not meet the County's standards), the County could possibly be held liable if an inspected system fails shortly after re-inspection/transfer.

3.2. Re-Permitting. If an OSSF is replaced or subjected to a major alteration, the OSSF shall be required to be re-permitted and upgraded to meet all applicable requirements of the current OSSF regulations, except for minimum lot acreage requirements.

#### **Section 11. DUTIES AND POWERS.**

Any individual(s) approved by the Commissioners Court, are herewith declared the designated representative(s) (DR) (30 TAC § 285.2(17)), as defined in the regulations of the Texas Commission on Environmental Quality, for the enforcement of this Order within the jurisdictional area of Hays County. The appointed individual(s) must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of the Designated Representative of Hays County.

#### **Section 12. COLLECTION OF FEES.**

All fees collected for permits and/or inspections shall be made payable to Hays County, Texas. A fee of \$10 will also be collected for each on-site sewage facility permit to be paid to the On-Site Wastewater Treatment Research Council as required by the THSC, Chapter 367 Texas Commission on Environmental Quality.

Fees for Applications for OSSF approvals shall be based on the type of system proposed and the nature of the development the OSSF will serve. Such fees shall be established by the Commissioners Court. Additional fees for reviews, inspections and related items shall be as established by the Commissioners Court. Fees paid to the County are non-refundable.

#### **Section 13. APPEALS.**

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Hays County, Texas.

#### **Section 14. ENFORCEMENT PLAN**

The County of Hays, Texas clearly understands that, at a minimum, it must follow the requirements in 30 TAC § 285.71 Authorized Agent Enforcement of OSSFs.

This Order adopts and incorporates all applicable provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the THSC, Chapters 7, 26, and 37 of the TWC and 30 TAC Chapter 30, Subchapters A and G, and Chapter 285.

An offense under this Order is a Class C misdemeanor punishable by a fine. The County may also seek all other remedies available to it under this Order and all applicable laws of the State of Texas and Rules of the TCEQ, whether referenced herein or not.

#### **Section 15. SEVERABILITY**

**Comment [rm29]:** The On-Site Wastewater Treatment Research Council went through the Subset Review process in 2010-11. Effective 9-1-2011, TCEQ assumed all administrative responsibilities of the TOWTRC.