

**LA SALLE COUNTY, TEXAS
SUBDIVISION REGULATIONS**

ADOPTED 4/8/2013

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Takings Impact Assessment
Tab 1

**TAKINGS IMPACT ASSESSMENT
CONDUCTED PURSUANT TO**

Chapter 2007, Texas Government Code

**IN THE COMMISSIONERS COURT
OF
LaSALLE COUNTY, TEXAS**

**TAKINGS IMPACT ASSESSMENT REGARDING PROPOSED DEVELOPMENT
REGULATIONS BY LaSALLE COUNTY, TEXAS**

PURPOSE AND INTENT

LaSalle County, Texas, acting through the LaSalle County Commissioners Court (hereafter “County”) is proposing to amend certain existing development regulations and to adopt certain new development regulations (hereafter “Proposed Regulations”). The Proposed Regulations will include revisions to the following existing development regulations:

- The Model Rules regarding subdivision of land, as adopted May 25, 2001.

The Proposed Regulations will include new regulations in the following general subject areas:

- New subdivision rules and regulations for unincorporated areas of LaSalle County, Texas.
- New rules and regulations regarding Manufactured Home Rental Communities
- New rules and regulations regarding Residential Building Code Standards
- Standardized administrative procedures and applications processing
- Delegations of authority to County Staff
- Additional water availability demonstration requirements
- Additional land use restrictions authorized under Texas State Statutes, including the Texas Local Government Code, the Texas Water Code and the Texas Transportation Code

This Takings Impact Assessment (hereafter “TIA”) is intended to satisfy the statutory requirements of the Texas Private Real Property Rights Preservation Act found at Chapter 2007 of the Texas Government Code (the “Act” or PRPRPA) in regard to the Proposed Regulations.

REGULATORY BACKGROUND

Governmental Takings in General

A governmental “taking” is a governmental action which restricts or regulates a private property interest to such a degree that it violates prohibitions on the taking of private property without just compensation, as outlined in either the United States Constitution¹ or the Texas Constitution. One form of a taking is a “Physical Taking” where a governmental entity physically takes or occupies private property (e.g., a city condemning an easement to expand a roadway across private property).

A more difficult-to-define form of taking is a “Regulatory Taking” which is a governmental regulatory requirement which has the effect of reducing the economic usefulness and value of private property to such an extent that it constitutes a taking of private property. The Proposed Regulations do not propose any “physical taking” of any particular property, but certain actions included in the Proposed Regulations are evaluated to determine whether they may constitute a “regulatory taking”.

General Principles in the Law of Regulatory Takings

The U.S. Supreme Court and the Texas Supreme Court have struggled to formulate a standard for determining when a governmental regulation of private property goes so far as to become a taking. At present the U.S. Supreme Court and Texas Supreme Court have adopted the following basic legal principles concerning the law of regulatory takings:

- Possible remedies for a regulatory taking are to invalidate the offending regulation or to make the governmental entity liable for monetary damages.
- In defending a challenge to a regulation, the governmental entity must show that the regulation actually substantially advances a legitimate state interest. A legitimate state interest has been liberally interpreted to include even such things as protecting residents from the “ill effects of urbanization” and the preservation of desirable aesthetic features.
- A compensable regulatory taking occurs when a land use regulation either (1) denies the landowner all economically viable uses of the property, or (2) unreasonably interferes with the owner’s right to use and enjoy his property. The Texas Supreme Court has held that to constitute a regulatory taking, a land use regulation which denies a landowner of all economically viable uses of the property and thereby renders the property valueless.
- In determining whether a governmental regulation unreasonably interferes with an owner’s right to use and enjoy his property, a court must evaluate two factors: (1) the economic impact of the regulation (i.e., comparing the value that has been taken from the property with the value that remains), and (2) the extent to which the regulation interferes with “distinct investment backed expectations” of the landowner. A regulation that interferes with existing or already-permitted land uses is more likely to be considered a regulatory taking than a regulation which interferes with speculative uses or the landowner’s asserted entitlement to the highest and most valuable use of every piece of his property.
- In the case of governmental exactions, the required dedication for public use or of public facilities must be roughly proportional to the actual need for those public facilities which is generated by the proposed development. For example, the amount of roadway required to be dedicated by the developer must be reasonably commensurate to the amount of traffic generated by the new development.

Definition of a Regulatory Taking

The following information is taken from the regulatory background on the issue of Regulatory Takings contained in a guidance document prepared by the State of Texas Office of the Attorney General (OAG). The Act [specifically Texas Local Government Code (LGC) §2007.002(5)] defines a "taking" as follows:

(a) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or

(b) a governmental action that:

(1) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and

(2) is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The Act, in TGC §2007.002, thus sets forth a definition of "taking" that (i) incorporates current jurisprudence on "takings" under the United States and Texas Constitutions, and (ii) sets forth a new statutory definition of "taking." Essentially, if a governmental entity takes some "action" covered by the Act and that action results in a devaluation of a person's private real property of 25% or more, then the affected party may seek appropriate relief under the Act. Such an action for relief would be predicated on the assumption that the affected real property was the subject of the governmental action.

TGC §2007.003(a) provides that the Act applies only to the following governmental actions:

- (1) the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure;
- (2) an action that imposes a physical invasion or requires a dedication or exaction of private real property;
- (3) an action by a municipality that has effect in the extraterritorial jurisdiction of the municipality, excluding annexation, and that enacts or enforces an ordinance, rule, regulation, or plan that does not impose identical requirements or restrictions in the entire extraterritorial jurisdiction of the municipality; and

- (4) enforcement of a governmental action listed in Subdivisions (1)-(3), whether the enforcement of the governmental action is accomplished through the use of permitting, citations, orders, judicial or quasi-judicial proceedings, or other similar means.

The requirement to do a TIA only applies to §2007.003(a)(1)-(3).

Governmental Actions Exempted From the Act

There are certain governmental actions exempted by the Act. The following actions are exempted from coverage of the Act under §2007.003(b):

- (a) an action by a municipality except as provided by subsection (a)(3);
- (b) a lawful forfeiture or seizure of contraband as defined by Article 59.01, Code of Criminal Procedure;
- (c) a lawful seizure of property as evidence of a crime or violation of law;
- (d) an action, including an action of a political subdivision, that is reasonably taken to fulfill an obligation mandated by federal law or an action of a political subdivision that is reasonably taken to fulfill an obligation mandated by state law;
- (e) the discontinuance or modification of a program or regulation that provides a unilateral expectation that does not rise to the level of a recognized interest in private real property;
- (f) an action taken to prohibit or restrict a condition or use of private real property if the governmental entity proves that the condition or use constitutes a public or private nuisance as defined by background principles of nuisance and property law of this state;
- (g) an action taken out of a reasonable good faith belief that the action is necessary to prevent a grave and immediate threat to life or property;
- (h) a formal exercise of the power of eminent domain;
- (i) an action taken under a state mandate to prevent waste of oil and gas, protect correlative rights of owners of interests in oil or gas, or prevent pollution related to oil and gas activities;
- (j) a rule or proclamation adopted for the purpose of regulating water safety, hunting, fishing, or control of nonindigenous or exotic aquatic resources;
- (k) an action taken by a political subdivision:

- a. to regulate construction in an area designated under law as a floodplain;
 - b. to regulate on-site sewage facilities;
 - c. under the political subdivision's statutory authority to prevent waste or protect rights of owners of interest in groundwater; or
 - d. to prevent subsidence;
- (l) the appraisal of property for purposes of ad valorem taxation;
- (m) an action that:
- (1) is taken in response to a real and substantial threat to public health and safety;
 - (2) is designed to significantly advance the health and safety purpose; and
 - (3) does not impose a greater burden than is necessary to achieve the health and safety purpose; or
- (n) an action or rulemaking undertaken by the Public Utility Commission of Texas to order or require the location or placement of telecommunications equipment owned by another party on the premises of a certificated local exchange company.

Based on the types of actions anticipated under the Proposed Regulations, LaSalle County believes that while certain actions included in the Proposed Regulations are exempt, other actions may not be exempt and will require the County to prepare a TIA.

Lawsuit to Invalidate a Governmental Taking

The Act allows landowners whose property is significantly impaired by governmental regulations to sue the governmental entity to invalidate the regulation. As an alternative to invalidation of the governmental action, the governmental entity may elect to pay the landowner compensation for the loss in value of the property interest. The Act is generally applicable to any governmental action (e.g., adoption of an ordinance, regulatory requirement or policy, or a governmental exaction) that restricts or limits the landowner's rights in the real property and that causes a reduction of 25% or more in the market value of the property. Any lawsuit by an affected real property owner against the governmental entity must be filed within 180 days after the owner knew or should have known of the governmental action. The prevailing party in the lawsuit against the governmental entity is entitled to recover reasonable and necessary attorney's fees and court costs from the losing party.

Requirement to Prepare a Takings Impact Assessment (TIA)

In addition to a lawsuit to invalidate a taking by a governmental entity, all governmental entities in Texas (including the County) are required to prepare a TIA evaluation of any proposed regulation that may impair private real property interests and to provide public notice of the takings impact assessment. If a governmental entity fails to prepare a required takings impact assessment, an affected real property owner may bring suit to invalidate the governmental action and recover attorney's fees and court costs.

EVALUATION PROCESS

Based on those items within the Proposed Regulations which might reasonably be determined to be subject to the preparation of a TIA, the County evaluated these items using the guidelines prepared by the State of Texas Office of the Attorney General. These guidelines require each action be evaluated through a series of questions. These questions, with subsequent instructions, are:

Question 1: Is the Governmental Entity undertaking the proposed action a Governmental Entity covered by the Act, i.e., is it a "Covered Governmental Entity"(CGA)? See the Act, §2007.002(1).

- (1) If the answer to Question 1 is "No": No further compliance with the Act is necessary.
- (2) If the answer to Question 1 is "Yes": Go to Question 2.

TGC §2007.002(1)(B) indicates that "a political subdivision of this state" is a covered governmental entity. Article IX of the Texas Constitution indicates that Counties are political subdivisions of the State. Therefore the County would be a covered governmental entity, subject to the requirement to prepare a TIA where it would otherwise be required.

Question 2. Is the proposed action to be undertaken by the Covered Governmental Entity an action covered by the Act, i.e., a "Covered Governmental Action"?

- (1) If the answer to Question 2 is "No": No further compliance with the Act is necessary.
- (2) If the answer to Question 2 is "Yes": Go to Question 3.

Based on the County's review of the Act, certain of the actions included in the Proposed Regulations may arguably qualify as Covered Governmental Actions (CGA) while others do not. As outlined above, the Proposed Regulations do not propose any "physical taking" of any particular property, but certain actions are required to be evaluated as a "regulatory taking". Those actions determined to be Covered Governmental Actions will be further evaluated using subsequent questions.

Question 3. Does the Covered Governmental Action result in a burden on "Private Real Property" as that term is defined in the Act?

If the answer to Question 3 is "No": A "No Private Real Property Impact" or NoPRPI Determination should be made. No further compliance with the Act is necessary if a NoPRPI Determination is made. Logically, the initial critical issue regarding any proposed governmental action is whether there is any burden on private real property. If a governmental entity has not resolved this issue by reference to its preexisting list of Categorical Determinations, it can do so by quickly and concisely making a NoPRPI Determination. (2) If the answer to Question 3 is "Yes": A TIA is required and the governmental entity must undertake evaluation of the proposed governmental action on private real property rights.

Based on the County's review of the Act, certain of the actions included in the Proposed Regulations may result in the imposition of a burden on "Private Real Property" as that term is defined in the Act. Therefore, Question 3 is answered as a qualified "YES", and those actions determined to impose a burden on "Private Real Property" will be further evaluated using subsequent questions and through the preparation of a TIA.

Question 4. What is the Specific Purpose of the Proposed Covered Governmental Action?

The TIA must clearly show how the proposed governmental action furthers its stated purpose. Thus, it is important that a governmental entity clearly state the purpose of its proposed action in the first place, and whether and how the proposed action substantially advances its stated purpose.

Question 5. How Does the Proposed Covered Governmental Action Burden Private Real Property?

Question 6. How Does the Proposed Covered Governmental Action Benefit Society?

Question 7. Does the Proposed Covered Governmental Action result in a "taking"?

The actions determined to be Covered Governmental Actions which also impose a burden on "Private Real Property" as that term is defined in the Act have been proposed to accomplish several different purposes. Each of those actions determined to be both a Covered Governmental Action and which impose a burden on "Private Real Property" will be further evaluated using Questions 4 through 7 in the TIA. The Office of Attorney General guidance also provides the following sub-questions for items determined to be Covered Governmental Actions:

- (1) Does the Proposed Covered Governmental Action Result Indirectly or Directly in a Permanent or Temporary Physical Occupation of Private Real Property?
- (2) Does the Proposed Covered Governmental Action Require a Property Owner to Dedicate a Portion of Private Real Property or to Grant an Easement?
- (3) Does the Proposed Covered Governmental Action Deprive the Owner of all Economically Viable Uses of the Property?
- (4) Does the Proposed Covered Governmental Action have a Significant Impact on the Landowner's Economic Interest?

(5) Does the Covered Governmental Action Decrease the Market Value of the Affected Private Real Property by 25% or More? Is the Affected Private Real Property the subject of the Covered Governmental Action? See the Act, §2007.002(5)(B).

(6) Does the Proposed Covered Governmental Action Deny a Fundamental Attribute of Ownership?

In addition to these questions to be addressed for each proposed action, the Office of Attorney General guidance also recommends an alternative evaluation:

Question 8. What are the Alternatives to the Proposed Covered Governmental Action?

For each of the Covered Governmental Actions which also impose a burden on “Private Real Property”, an alternatives evaluation will be provided.

SUMMARY OF THE PROPOSED REGULATIONS

The following items provide a summary of the major actions from the Proposed Regulations. Based on the regulatory background information and the nature of the proposed actions, each major proposed action has been assigned to one of three categories, depending on whether it was determined to be a “Covered Governmental Action” and whether it places a “burden” on property, as those terms are defined under the Act. An explanation of each action and the rationale for its inclusion in its selected category is provided below.

Actions in the Proposed Regulations Determined to Not Be “Covered Governmental Actions”

(“No “to OAG Question 2)

1. Additional Water and Wastewater Availability Demonstration Requirements

The County’s existing subdivision regulations contain certain requirements for demonstrating water and wastewater availability pursuant to the so-called “Model Rules” provided by Article 16 of the Texas Water Code. Under the County’s authority to regulate the subdivision of property provided in Texas Local Government Code (TLGC), Chapter 232.19 and authority granted to the County under the Texas Water Code, the County is proposing additional requirements for demonstrating water and wastewater availability, and for proper drainage of storm-water for developments in the unincorporated areas of the County. The proposed actions are outlined in Sections XI and XII of the Proposed Regulations.

Specifically the County is proposing:

- Additional technical requirements for demonstrating water and wastewater availability

- Additional methods of providing water and wastewater service to be considered in demonstrating availability
- Additional requirements for water availability demonstrations relying on groundwater in Priority Groundwater Management Areas (PGMAs), as those areas are defined by the Texas Commission on Environmental Quality (TCEQ)
- Additional requirements for proper drainage of storm water.

The proposed actions were determined to be exempted from the Act in accordance with TGC §2007.003(b)(11)(C) due to the County's intent to protect the rights of the owners of interest in groundwater and in accordance with TGC §2007.003(b)(13) due to the County's intent to protect public health and safety by establishing minimum requirements for the provision of drinking water and the proper management of wastewater, and to protect the environment and property owners from the adverse effects of flooding and uncontrolled run-off of storm water. Based on these exemptions, these proposed actions are not subject to the requirement to prepare a TIA.

2. Regulation of Certain Private Roadways

Under the County's authority to regulate the subdivision of property provided in TLGC Chapter 232, the County is proposing new requirements for regulating certain private roadways. The proposed actions are outlined in Section VIII of the Proposed Regulations. The proposed actions are intended to ensure unrestricted access to all areas of new subdivisions by emergency vehicles. The County is proposing these actions specifically to address situations where width restrictions, obstructions, and roadway conditions may prevent timely emergency response activities. The County believes that delays in timely emergency response caused by impassable private roadways constitute a "grave and immediate threat" to life and property. Based on this belief the County further believes that the proposed actions were developed in "good faith" to prevent delays in timely emergency response. As such, the proposed actions were determined to be exempted from the Act in accordance with TGC §2007.003(b)(7) due to the County's intent to prevent grave and immediate threats to life or property. Based on this exemption, these proposed actions are not subject to the requirement to prepare a TIA.

3. Adoption of Minimum Roadway Right-of-Way Widths

The County's existing subdivision regulations do not contain requirements for roadway right-of-way widths. Under the County's authority to regulate the subdivision of property provided in TLGC Chapter 232, the County is proposing to adopt requirements for the provision of minimum right-of-way widths for new Public Roadways. The proposed actions are outlined in Section VIII of the Proposed Regulations. The proposed actions are intended to ensure that new roadways provide adequate right-of-way to comply with the latest engineering design standards for safe travel over public roadways. The County believes that adequate roadway right-of-way widths may contribute to a real and substantial threat to public safety, and is proposing the changes to the right-of-way widths to improve public safety, but is limiting those changes to only those necessary to accomplish the public safety purpose. Based on this belief, the County further believes that the proposed actions do not impose a burden greater than that necessary to

accomplish this purpose. As such, the proposed actions were determined to be exempted from the Act in accordance with TGC §2007.003(b)(13) due to the County’s intent to address public safety concerns. Based on this exemption, these proposed actions are not subject to the requirement to prepare a TIA.

4. Modifications to the Flood Damage Prevention Standards

Under the County’s authority under the Texas Water Code, Chapter 16.22, the County is proposing additional requirements for regulating development in flood hazard areas. The proposed actions are outlined in Chapter 735 of the Proposed Regulations. The proposed actions were determined to be exempted from the Act in accordance with TGC §2007.003(b)(11)(A) due 22 TWC, Title 2, “Water Administration”, Chapter 16, “Provisions Generally Applicable to Water Development”, as amended through the 80th Regular Legislative Session, Legislature of the State of Texas. Their inclusion in the County’s regulation of construction in floodplains is exempted and is not subject to the requirement to prepare a TIA.

Actions in the Proposed Regulations Determined to Not Place a Burden on Property (“No “to OAG Question 3)

1. Standardization of Administrative Procedures, Applications Processing, Public Notice Procedures and Development Agreements

Under the County’s authority to regulate various aspects of land development as authorized under various chapters of the Texas Local Government Code, the County is proposing significant changes and additions to the administrative procedures, applications processing procedures, public notice procedures, and procedures for the use of development agreements to be utilized by the County in the regulation of development within the County. While these proposed actions affect the information to be prepared and submitted to the County, and how the County will apply the Proposed Regulations, the administrative procedures themselves do not create a “burden” per se on “Private Real Property”, as that term is defined in the Act, being regulated by the Propose Regulations. As outlined in the guidance from the OAG:

TIA’s must concentrate on the truly significant real property issues. No need exists to amass needless detail and meaningless data. The public is entitled to governmental conformance with legislative will, not a mass of unnecessary paperwork.

The proposed actions regarding the administrative procedures and applications processing were determined to not place a direct burden on “Private Real Property” and qualify for a "No Private Real Property Impact" Determination (hereafter “NoPRPI Determination”) as provided in the OAG guidelines, and would not be subject to the requirement to prepare a TIA.

**Actions in the Proposed Regulations Determined to Be “Covered Governmental Actions”
and to Place a “Burden on Private Real Property”**

Based on the evaluation conducted by the County the following list of proposed actions may qualify as “Covered Governmental Actions” and place a “burden” on Private Real Property. The further evaluation of these items is presented in the following section:

- Obtaining Approval Prior to Furnishing Utility Service
- Registration of Certain Exempt Subdivisions
- Development Authorization Expiration
- Minimum Lot Sizes

TAKINGS IMPACT ASSESSMENT FOR THE QUALIFYING ACTIONS

Impacts of Development Regulation in General

In general, reasonable development restrictions will serve a basic public purpose but will not be of such an extreme character as would constitute a regulatory taking. First, the goals of protecting public health and safety and water quality clearly appear to qualify as a legitimate state interest since prior U.S. Supreme Court rulings have held that governmental regulations addressing the “ill effects of urbanization” and the preservation of desirable aesthetic features are legitimate state interests. It has also been expressly held by the Supreme Court that governmental restrictions on the use of only limited portions of a parcel of land such as setback ordinances are not considered regulatory takings.

Moreover, in a recent U.S. Supreme Court case on regulatory takings, the Court was faced with the question of whether a temporary moratorium on all development around Lake Tahoe constituted a regulatory taking per se. The Supreme Court held that such a moratorium did not constitute a per se taking and that various factors must be analyzed to determine whether a moratorium constitutes a taking. In so ruling, the Court referred to a set of Lake Tahoe water quality protection ordinances enacted in 1972 which restricted impervious cover and established setback limits. These measures preceded the establishment of the development moratorium at issue in the case. Since the moratorium was held not to be a per se regulatory taking, it is very doubtful that traditional development regulations would be considered a regulatory taking if crafted to accomplish their stated purpose while still allowing the landowner to reasonably use and enjoy his property.

This conclusion is consistent with the guidelines adopted by the OAG. These guidelines provide as follows:

“Accordingly, government may abate public nuisances, terminate illegal activity, and establish building codes, safety standards, or sanitary requirements generally without creating a compensatory ‘taking.’ Government may also limit the use of real property through land use planning, zoning ordinances, setback requirements, and environmental regulations.”

These guidelines further indicate that some types of development regulation may qualify for the exemption from the Texas Private Real Property Rights Preservation Act as regulatory actions which protect public health and safety.

**Actions in the Proposed Regulations Determined to Be “Covered Governmental Actions”
That Place a “Burden” on Private Real Property**

The following proposed actions have been reasonably determined to be “Covered Governmental Actions” that may place a “burden” on Private Real Property. Each of these proposed actions has been evaluated using the additional questions in OAG guidelines (specifically Questions 4 through 8, and where necessary, the sub-questions).

1. Obtaining Approval Prior to Furnishing Utility Service

Under the County’s authority to regulate the subdivision of property provided in Texas Local Government Code, Chapter 232 the County is proposing to implement requirements for utility providers to obtain written approval from the County prior to furnishing utility service to a regulated development (non-exempt subdivisions and Manufactured Home Rental Communities). Specifically the County is relying on TLGC §232.106 which authorizes Counties to regulate the connection of utilities in accordance with TLGC §232.0291. This provision of the TLGC authorizes counties to require a certification from the County before a “utility” extends service to “any subdivided land”. The TLGC defines a “utility” as a “person, including a legal entity or political subdivision”, and is further defined to include electric, gas and water and sewer utilities. The County is also relying on TLGC §232.007(h) which authorizes counties to regulate the connection of utilities to a Manufactured Home Rental Community. These provisions of the TLGC authorize the County, upon the adoption of the Proposed Regulations, to require all utility providers, including other governmental utility providers, to obtain certification from the County prior to extending utility service to either a non-exempt subdivision or a Manufactured Home Rental Community, subject to the provisions of TLGC §232.0291.

These proposed actions are outlined in Sections VII and VIII of the Subdivision Regulations and Section IV of the Manufactured Home Rental Communities Regulations. The proposed actions may subject certain utility providers to new requirements to obtain written approval from the County prior to furnishing utility service. These actions together have been determined to be a CGA that may place a burden on “Private Real Property”.

OAG Question 4 -What is the Specific Purpose of the Proposed CGA?

The purpose of the proposed CGA is to prevent utility providers from furnishing utility service to developments that do not meet the County’s requirements. Unscrupulous developers may attempt to circumvent the County’s requirements by selling property to unsuspecting homeowners before ensuring that the County has issued approval for the development. By way of example, if a developer were to begin selling lots in a subdivision prior to filing the final plat and installing the necessary roadways and utilities, a utility provider would be required to obtain certification of approval from the County prior to connecting the utilities to a new home built in that subdivision. In this instance, the County would be notified of a violation of its regulations

when the utility provider sought the certificate from the County to extend utility service to a development that had not yet been approved. This notice would allow the County to initiate enforcement activities against the offending party and institute any corrective measures at its disposal. While this might not prevent harm to the individual already victimized by the unscrupulous developer, it would allow the County to implement measures to control further harm to unsuspecting members of the public. The County believes that this is an important safeguard for the public and is intended to rectify a non-compliant situation. The County further believes that this proposed action will substantially advance the purpose of protecting the public interest.

OAG Question 5 -How Does the Proposed CGA Burden Private Real Property?

In instances where it is invoked, the proposed CGA may create a burden on Private Real Property by preventing a property owner from having utilities connected to new or existing construction and by preventing utility owners from extending their property (utilities) to noncompliant developments.

OAG Question 6 -How Does the Proposed CGA Benefit Society?

The proposed CGA benefits society in the following ways:

- Serving as a deterrent to unscrupulous developers by providing a third-party notification to the County for non-compliant activities.
- Increasing the likelihood that the County is notified as early as possible about requests to extend utilities to a non-compliant development, providing the best opportunity for the situation to be corrected before additional harm is propagated on the public.

OAG Question 7 -Does the Proposed CGA result in a "taking"?

OAG Sub-question 1 -Does the Proposed CGA Result Indirectly or Directly in a Permanent or Temporary Physical Occupation of Private Real Property?

No.

OAG Sub-question 2 -Does the Proposed CGA Require a Property Owner to Dedicate a Portion of Private Real Property or to Grant an Easement?

No.

OAG Sub-question 3 -Does the Proposed CGA Deprive the Owner of all Economically Viable Uses of the Property?

Although the denial of utility connection under the proposed regulation in most cases will result in only a temporary limitation, in an extreme case, the proposed CGA could result in a property owner being deprived of all economically viable use of the property in an instance

where an unscrupulous developer sold that property owner certain real property from a non-compliant development. If the unscrupulous developer were to go bankrupt without having provided adequate financial assurance, the property owner might be unable to have utilities furnished to property intended for a home site. This would have the effect of depriving that owner of the ability to use that property for a home site, thus depriving him of an important economic use of the property as a home site. However, for a regulatory taking as defined under TLGC §2007.002(5)(B)(ii), to exist, the CGA would need to be the “producing cause”. In this instance, the producing cause of the property owner being deprived of the economically viable use of his property would be the actions of the unscrupulous developer and not the CGA of the County. Based on this definition, the proposed CGA would not constitute a regulatory taking.

OAG Sub-question 4 -Does the Proposed CGA have a Significant Impact on the Landowner's Economic Interest?

As outlined in the response to OAG Sub-question 3, the proposed CGA could result in a significant impact to a property owner’s economic interest. However, the proposed CGA would not be the “producing cause”, and would therefore not constitute a regulatory taking.

OAG Sub-question 5 -Does the CGA Decrease the Market Value of the Affected Private Real Property by 25% or More? Is the Affected Private Real Property the subject of the Covered Governmental Action? See the Act, §2007.002(5)(B).

As outlined in the response to OAG Sub-question 3, the proposed CGA could result in a significant impact to a property owner’s economic interest, including a reduction of 25% or more of the market value of the affected Private Real Property. However, the CGA would not be the “producing cause”, and would therefore not constitute a regulatory taking.

OAG Sub-question 6 -Does the Proposed Covered Governmental Action Deny a Fundamental Attribute of Ownership?

In an extreme case, the proposed CGA could result in a property owner being denied the right to have utilities extended to his property, which would be considered a fundamental attribute to ownership. However, as outlined in the response to OAG Sub-questions 3 through 5, the proposed CGA would not be the “producing cause”, and would therefore not constitute a regulatory taking.

OAG Question 8 -What are the Alternatives to the Proposed CGA?

The County’s proposed CGA is based on optional authority granted to the County by the Texas Legislature. The only alternative to the proposed action is to not implement this optional authority. The County believes that the proposed action protects the public interest, and that failing to implement the proposed action is less protective of the public interest. The County further believes that there are no feasible alternatives to the proposed action.

Conclusion: The County's Proposed Action of Requiring Utility Providers to Obtain Approval Prior to Furnishing Utility Service to a Regulated Development does not constitute a Regulatory Taking.

2. Registration of Certain Exempt Subdivisions

Under the County's authority to regulate the subdivision of property provided in Texas Local Government Code, Chapter 232 the County is proposing to implement requirements for registering certain subdivisions that are exempt under State Law. Specifically the County is relying on TLGC §232.0015(a) which authorizes counties to classify divisions of property and exempt some of those from platting requirements. This proposed action is outlined in Section IV of the Proposed Regulations. The County is proposing to exempt from platting, but require the registration of exempt property divisions in order to allow for subsequent monitoring of development that would no longer qualify for exemption, or to identify subdivisions of property determined to be exempt for financial severance purposes (hereafter "Financial Severance Subdivisions" or "FSS"). In general, Financial Severance Subdivisions are divisions of property made to allow a portion of a property to serve as collateral for a financial transaction, while the remaining portion of the property is not subject to the financial transaction.

Some property divisions that are exempt, such as intra-family divisions, or divisions of large sized parcels, may subsequently be modified in such a manner as to forfeit the exemption, or to become subject to the Proposed Regulation. The proposed action may subject certain property owners to new requirements to file documents with the County. This action has been determined to be a CGA.

OAG Question 4 -What is the Specific Purpose of the Proposed CGA?

In the past, the County is aware of instances where a property owner has carved out a portion of a tract of land to identify that separated property for financial severance purposes (an FSS). Most often this separated property is used as collateral for funding to construct of a home on the remaining portion of the property. While subdivision per se is not made when the FSS is identified, a subdivision would occur if that FSS is used as the basis for the transfer of the property to a person that does not qualify for an exempt transfer of property under State Law.

If the property owner defaults on the financial obligation, the financial institution may take possession of the separated portion of the property. If the financial lender is not a natural person properly related to the defaulting property owner, when this separate ownership is perfected, a de-facto subdivision occurs that would be regulated under both state law and County ordinances. If the original FSS was not configured to include access to a public road, this de facto subdivision would create a separate tract with no public access, in violation of state law and County ordinances. The purpose of the proposed CGA is to prevent the adverse effects of these types of subdivisions of property that make no provision for public access to a portion of a property divided through financial severance.

OAG Question 5 -How Does the Proposed CGA Burden Private Real Property?

The proposed CGA may create a burden on Private Real Property by requiring the property owner to file paperwork with the County when establishing an FSS. The proposed CGA may further burden Private Real Property by requiring a property owner to utilize a configuration for the FSS to allow access to a public roadway or to grant an access easement across the portion of their property not included within the FSS.

Under TLGC §232.0015(e), real property resulting from exempt subdivisions may be transferred to individuals related to the owner within the third degrees of consanguinity or affinity of the property owner without invalidating the exemption.

Updating of the LaSalle County Development Standards

OAG Question 6 -How Does the Proposed CGA Benefit Society?

The proposed CGA benefits society in the following ways:

- Serving as a deterrent to the improper configuration of an FSS that does not have access to a public roadway.
- Increasing the likelihood that the County is aware of an FSS as early as possible, providing the best opportunity for the situation to be corrected before additional the improper configuration is made.

OAG Question 7 -Does the Proposed CGA result in a "taking"?

OAG Sub-question 1 -Does the Proposed CGA Result Indirectly or Directly in a Permanent or Temporary Physical Occupation of Private Real Property?

No.

OAG Sub-question 2 -Does the Proposed CGA Require a Property Owner to Dedicate a Portion of Private Real Property or to Grant an Easement?

While the property owner could configure the FSS to provide access to a public roadway, as an alternative, the property owner could also grant an access easement to the FSS through the portion of their property that is not included in the FSS.

OAG Sub-question 3 -Does the Proposed CGA Deprive the Owner of all Economically Viable Uses of the Property?

No. Even in an instance where the property owner might elect to grant an easement, this easement would only require the property owner to provide ingress/egress across the portion of their property that is not included in the FSS.

OAG Sub-question 4 -Does the Proposed CGA have a Significant Impact on the Landowner's Economic Interest?

A determination as to whether the proposed CGA has a significant impact on the landowner's economic interest must be made on a case-by-case basis. However, the property owner is given the option of configuring the FSS to allow public access or granting an easement across the property that is not included in the FSS. The Proposed Regulations further make provision for the granting of variances in the event the proposed CGA may result in a regulatory taking in a particular case. Given these allowances, the proposed action will not generally have a significant impact on the landowner's economic interest.

OAG Sub-question 5 -Does the CGA Decrease the Market Value of the Affected Private Real Property by 25% or More? Is the Affected Private Real Property the subject of the Covered Governmental Action? See the Act, §2007.002(5)(B).

As outlined in the previous response, determinations as to whether the proposed action decreased the market value of affected Private Real Property must be made on a case-by-case basis. However, the property owner is given the option of configuring the FSS to allow public access or granting an easement across the property that is not included in the FSS. The Proposed Regulations further make provision for the granting of variances in the event the proposed CGA may result in a regulatory taking in a particular case. Given these allowances, the proposed action will not generally result in a decrease in market value of twenty five percent or more.

OAG Sub-question 6 -Does the Proposed Covered Governmental Action Deny a Fundamental Attribute of Ownership?

No.

OAG Question 8 -What are the Alternatives to the Proposed CGA?

The County's proposed CGA is based on authority granted to the County by the Texas Legislature to regulate the subdivision of property. The only alternative to the proposed CGA is to not implement this authority. The County believes that the proposed CGA protects the public interest, and that failing to implement the proposed CGA is less protective of the public interest. The County further believes that there are not feasible alternatives to the proposed CGA.

Conclusion: The County's Proposed Action of Requiring the Registration of Certain Exempt Subdivisions does not constitute a Regulatory Taking.

3. Development Authorization Expiration

The County's existing development regulations contain minimal requirements for the expiration and in some cases, renewal, of various permits and approvals. Under the County's authority to regulate the expiration of various permits and approvals provided in TLGC, Chapter 245, the County is proposing to establish expiration periods for some and modify the expiration period for other various permits and approvals (referred to as "Development Authorizations")

included within the Section VI of the Proposed Regulations. Specifically the County is relying on TLGC Chapter 245 which authorizes a “regulatory agency” to establish expiration periods for various permits and approvals. In this context, a “regulatory agency” includes a “political subdivision, and “political subdivision” includes a county. This provision of the TLGC authorizes the County, upon the adoption of the Proposed Regulations, to establish expiration periods for a broad range of permits, which is defined to include an “approval” or “other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.” The County has construed this provision to cover all types of Development Authorizations approved following the effective date of the Proposed Regulations.

The proposed action subjects property owners and developers obtaining Development Authorizations from the County to a timeframe for making progress on their project. These actions, taken together, have been determined to be a CGA.

OAG Question 4 -What is the Specific Purpose of the Proposed CGA?

The purpose of the proposed CGA is to minimize the number of projects that are constructed under older and generally less protective standards, to the extent allowed by law.

OAG Question 5 -How Does the Proposed CGA Burden Private Real Property?

The proposed CGA may create a burden on Private Real Property by requiring the Owner or Developer to continue to make progress on a project within a specific timeframe, regardless of the market or other timing factors. This burden can be removed by the applicant initiating the actions authorized in the Development Authorization within the expiration period.

OAG Question 6 -How Does the Proposed CGA Benefit Society?

In general, the County believes that these older standards are generally not as protective of the public as newer standards. By implementing the proposed expiration periods, the County intends to minimize the number of projects constructed under the older, generally less protective standards. The proposed CGA will benefit society by minimizing the number of project using old or outdated standards.

OAG Question 7 -Does the Proposed CGA result in a "taking"?

OAG Sub-question 1 -Does the Proposed CGA Result Indirectly or Directly in a Permanent or Temporary Physical Occupation of Private Real Property?

No.

OAG Sub-question 2 -Does the Proposed CGA Require a Property Owner to Dedicate a Portion of Private Real Property or to Grant an Easement?

No.

OAG Sub-question 3 -Does the Proposed CGA Deprive the Owner of all Economically Viable Uses of the Property?

In the event that a Development Authorization expired, the Applicant might be deprived of the specific use(s) authorized in the Development Authorization. However, there would likely be other uses available or the Applicant could apply again for a new Development Authorization for the same use(s). Given these conditions, the proposed CGA will not deprive an owner of all economically viable use of the property.

OAG Sub-question 4 -Does the Proposed CGA have a Significant Impact on the Landowner's Economic Interest?

A determination as to whether the proposed CGA has a significant impact on the landowner's economic interest must be made on a case-by-case basis. As outlined in the response to OAG Sub-question 3, in the event that a Development Authorization expired, the proposed CGA could result in the loss of a particular use. However, the "producing cause" of this loss would be the Applicant's failure to act under the terms of the Development Authorization and not the expiration of the Development Authorization. Since the CGA would not be the "producing cause", it would therefore not constitute a regulatory taking.

OAG Sub-question 5 -Does the CGA Decrease the Market Value of the Affected Private

Real Property by 25% or More? Is the Affected Private Real Property the subject of the Covered Governmental Action? See the Act, §2007.002(5)(B).

As outlined in the previous response, determinations as to whether the proposed CGA decreases the market value of affected Private Real Property must be made on a case-by-case basis. However, given the considerations outlined in the responses to OAG Sub-questions 3 and 4, if an instance occurred where the expiration of a particular Development Authorization resulted in the decrease of the market value of the Private Real Property by 25% or more, the "producing cause" of this loss would be the Applicant's failure to act under the terms of the Development Authorization and not the expiration of the Development Authorization. Since the CGA would not be the "producing cause", it would therefore not constitute a regulatory taking.

OAG Sub-question 6 -Does the Proposed Covered Governmental Action Deny a Fundamental Attribute of Ownership?

No.

OAG Question 8 -What are the Alternatives to the Proposed CGA?

The County's proposed CGA is based on authority granted to counties by the Texas Legislature. The only alternative to the proposed CGA is to not implement this authority. The County believes that the proposed CGA provides significant public benefits at relatively small risk of adverse impact to property owners.

Conclusion: The County's Proposed Action of Establishing and Modifying Development Authorization Expiration Periods does not constitute a Regulatory Taking.

4. Minimum Lot Sizes and Setbacks

Under State law pertaining to off-site septic systems (OSSF), the Texas Commission on Environmental Quality presently permits OSSF installations. The County may, at some future date, qualify to administer OSSF permitting. In order to comply with safe wastewater management, it is necessary to regulate lot sizes and setbacks. Further, under the County's authority to regulate certain aspects of building construction as provided in TLGC Chapter 233, the County is proposing to implement minimum setbacks from Public Roadways. Specifically, TLGC Chapter 233 authorizes counties to "(1) establish by order building or set-back lines on the public roads, including major highways and roads, in the county; and (2) prohibit the location of a new building within those building or set-back lines." TLGC Chapter 232 further authorizes counties to adopt these setback lines without a limitation period. These setbacks would extend a specified distance from the public roadway right-of-way line onto private property. This proposed action is outlined in Section IX of the Proposed Regulations, and in the International Residential Code adopted by the County Adoption of Subchapter F, Chapter 233, Texas Local Government Code. The proposed action may subject certain property owners to the requirement to conduct a review of their proposed construction plans and may restrict the placement of certain types of structures within the specified setbacks. This action has been determined to be a CGA.

This evaluation is intended only to address the impacts of the initial establishment of the setback lines and does not address subsequent right-of-way purchases or condemnation that may take place within these setbacks or elsewhere.

OAG Question 4 -What is the Specific Purpose of the Proposed CGA?

The purpose of the proposed CGA is to minimize the future cost to the County (including the taxpaying public) for remediation of substandard subdivisions and expanding County roadways and to provide a public safety component by providing additional separation between OSSF systems, or in the case of roadways, between the traveled roadway and an above-grade structure made of non-collapsible material.

OAG Question 5 -How Does the Proposed CGA Burden Private Real Property?

The proposed CGA may create a burden on Private Real Property by requiring a de facto easement across the designated portion of the property adjacent to the public roadway. While this portion of the property could be occupied by a yard, driveways, parking lots, or vegetation, it could not be occupied by above-grade structures.

OAG Question 6 -How Does the Proposed CGA Benefit Society?

The County believes that implementing the proposed minimum lot sizes and/or roadway setbacks benefits society in the following ways:

- Reducing the potential for health and sanitation problems caused by densely packed residential developments with inadequate OSSF percolation in the local soil, thereby increasing the risk of disease and contamination of well provided drinking water.
- Reducing the cost of obtaining future right-of-way for public roadway expansion projects by ensuring that the area most likely to be required for expansion is not occupied by above-grade construction. In addition to the purchase price of the land, any above-grade structures present would increase the amount of compensation required for securing the expanded right-of-way.
- Providing an additional safety zone for traveling vehicles that may leave the roadway. This additional safety zone will reduce potential damage and harm to the vehicle and its occupants as well as to the property, fixtures and occupants adjacent to the roadway.

OAG Question 7 -Does the Proposed CGA result in a "taking"?

OAG Sub-question 1 -Does the Proposed CGA Result Indirectly or Directly in a Permanent or Temporary Physical Occupation of Private Real Property?

No.

OAG Sub-question 2 -Does the Proposed CGA Require a Property Owner to Dedicate a Portion of Private Real Property or to Grant an Easement?

As for the OSSF Lot sizes, no implied easement is involved. For Private Real Property located adjacent to a public roadway, the proposed CGA would create a de facto easement across the designated portion of the property within the setback distance from the right-of-way line of the public roadway.

OAG Sub-question 3 -Does the Proposed CGA Deprive the Owner of all Economically Viable Uses of the Property?

In an extreme case, the proposed CGA could result in a property owner being deprived of all economically viable use of the property in an instance where substantially all of the affected property was restricted by the minimum lot size requirements or the road setback. This would have the effect of depriving that owner of the ability to use that property for a building site, thus depriving him of an important economic use of the property as a building site. However, there are very few properties in the unincorporated areas of the County that would be subject to the Proposed Regulations that do not contain sufficient area to accommodate the Proposed Regulations. The Proposed Regulations make provision for the granting of variances in the event the proposed CGA may result in a regulatory taking in a particular case. In the rare instances where the proposed setbacks might otherwise deprive a property owner of all economically

viable uses of their property, the Commissioners Court could grant a variance to remedy any rare set of circumstances that might result in a regulatory taking. Given these allowances, the proposed CGA will not generally deprive an owner of all economically viable use of the property.

OAG Sub-question 4 -Does the Proposed CGA have a Significant Impact on the Landowner's Economic Interest?

A determination as to whether the proposed CGA has a significant impact on the landowner's economic interest must be made on a case-by-case basis. As outlined in the response to OAG Sub-question 3, in an extreme case, the proposed CGA could result in a significant impact to the landowner's economic interest in an instance where substantially all of the affected property was restricted by the setback. However, in the vast majority of instances, only a portion of the property will be affected by the setback. For instance, a previously platted one-quarter (1/4) acre (10,890 square foot) lot, with a public roadway frontage of seventy five (75) feet, the length of the lot off the public roadway would be approximately one-hundred forty five (145) feet. Assuming a fifty (50) foot setback applied to the lot, the setback would restrict above-grade construction over the front 3,750 square feet, leaving the remaining 7,140 square feet available for above-grade construction. In addition, customary residential and commercial construction practices in LaSalle County generally result in the placement of driveways, parking areas, yards and other associated features between the right-of-way line and any above-grade structures. The setback area could also be occupied by an OSSF effluent discharge system. Since these features are customarily located in the area that would be occupied by the proposed setbacks, the setback requirement would not be expected to have a significant adverse impact on the landowner's economic interest. In the rare instances where the proposed setbacks might otherwise have a significant impact on the landowner's economic interests, the Commissioners Court could grant a variance to remedy any rare set of circumstances that might result in a regulatory taking.

OAG Sub-question 5 -Does the CGA Decrease the Market Value of the Affected Private Real Property by 25% or More? Is the Affected Private Real Property the subject of the Covered Governmental Action? See the Act, §2007.002(5)(B).

As outlined in the previous response, determinations as to whether the proposed CGA decreases the market value of affected Private Real Property must be made on a case-by-case basis. However, given the considerations outlined in the responses to OAG Sub-questions 3 and 4, the circumstances where the proposed setbacks would have a significant adverse impact would be relatively rare. In the rare instances where the proposed setbacks might otherwise decrease the market value of the Private Real Property by 25% or more, the Commissioners Court could grant a variance to remedy any rare set of circumstances that might result in a regulatory taking. Given these allowances, the proposed CGA will not generally result in the decrease in market value of any specific Private Real Property by 25% or more.

OAG Sub-question 6 -Does the Proposed Covered Governmental Action Deny a Fundamental Attribute of Ownership?

No.

OAG Question 8 -What are the Alternatives to the Proposed CGA?

The County's proposed CGA is based on optional authority granted to the counties by the Texas Legislature. The only alternative to the proposed CGA is to not implement this authority. The County believes that the proposed CGA provides significant public benefits at relatively small cost to property owners, and in most instances will require very few, if any changes, to a property owner's site development plans. In return, the County can save significant costs in the acquisition of future right-of-way.

Conclusion: The County's Proposed Action of Establishing Minimum Lot Sizes and Setbacks along Public Roadways does not constitute a Regulatory Taking.

Model Subdivision Regulation (adopted 5/25/2001) restated
Tab 2

Original Model Rules, as adopted May 25, 2001, but re-stated herein for purposes of unification with subsequently adopted Comprehensive Subdivision Regulations

**LaSalle County
MODEL SUBDIVISION RULES
(chapter 364)**

SUBCHAPTER B. MODEL RULES

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- Section 4.1 Oversight**
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APPENDICES

- Appendix 1A. Sample Form for Water Service Agreement**
- Appendix 1B. Sample Form for Wastewater Service Agreement**
- Appendix 2A. Subdivision Construction Agreement Sample Form**
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**MODEL SUBDIVISION REGULATIONS
ADOPTED MAY 25, 2001**

Pursuant to Chapter 16, Texas Water Code

LaSalle County
MODEL SUBDIVISION RULES
(chapter 364)

DIVISION 1. GENERAL AND ADMINISTRATIVE PROVISIONS

Section 1.1 Authority and Scope of Rules. These rules are adopted by LaSalle County, Texas, under the authority of the Local Government Code, Chapter 232 and Water Code, 16.350. Notwithstanding any provision to the contrary, these rules apply only to a subdivision which creates two or more lots of ten acres or less intended for residential purposes. Lots of ten acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.

Section 1.2 Purpose. It is the purpose of these rules to promote to public health of the county residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of this county, and to apply the minimum state standards for water and wastewater facilities to these subdivisions.

Section 1.3. Effective Date. These rules become effective on the 25 day of May 2001.

Section 1.4. Repealer. Provisions of Order(s) Number ____, adopted on the 9th day of July, 1990, are hereby repealed, except as to such sections which are retained herein.

Section 1.5. Plat Required.

- (a) The owner of a tract of land located outside the corporate limits of a municipality that divides the tract in any manner that creates two or more lots of ten acres or less intended for residential purposes must have a plat of the subdivision prepared. Lots of ten acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.
- (b) No subdivided land shall be sold or conveyed until the subdivider:
 - (1) has received approval of a final plat of the tract; and
 - (2) has filed and recorded with the county clerk of the county in which the tract is located a legally approved plat.
- (c) A division of a tract is defined as including a metes and bounds description, or any description of less than a whole parcel, in a deed of conveyance or in a contract for a deed, using a contract of sale or other executor contract, lease/purchase agreement, or using any other method to convey property.

Section 1.6. Supersession. These rules supersede any conflicting regulations of the county.

Section 1.7. Severability. If any part or provision of these regulations, or application thereof, to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other

persons or circumstances. The commissioners court hereby declares that it would have enacted the remainder of these regulations without any such part, provision or application.

Section 1.8 Definitions. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Commissioners court (or court) – the commissioners court of LaSalle County, Texas.
- (2) County – LaSalle County, Texas.
- (3) Drinking water – All water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.
- (4) Engineer – A person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act.
- (5) Final plat – A map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the county records and prepared as described in these regulations.
- (6) Lot – An undivided tract or parcel of land.
- (7) Non-public water system – Any water system supplying water for domestic purposes which is not a public water system.
- (8) OSSF – On-site sewage facilities as that term is defined in rules and/or regulations adopted by TNRCC, including but not limited to 30 TAC Chapter 285.
- (9) Platted – Recorded with the county in an official plat record.
- (10) Public water system – A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition of drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but not owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system with the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms individual or served, and individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.
- (11) Purchaser – Shall include purchasers under executor contracts for conveyance of real property.
- (12) Retail public utility – Any entity meeting the definition of a retail public utility as defined in Water Code 13.002.
- (13) Sewerage facilities – The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.

- (14) Subdivider – Any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.
- (15) Subdivision – Any tract of land divided into two or more parts that results in the creation of two or more lots of ten acres or less intended for residential purposes. A subdivision includes re-subdivision (replat) of land which was previously divided.
- (16) TAC – Texas Administrative Code, as compiled by the Texas Secretary of State.
- (17) TNRCC – Texas Natural Resource Conservation Commission.
- (18) Water facilities – Any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use and consumption.

DIVISION 2. MINIMUM STANDARDS

Section 2.1 Scope of Standards. The establishment of a residential development with two or more lots of ten acres or less where the water supply and sewer services do not meet the minimum standards of this division is prohibited. A subdivision with lots of ten acres or less is presumed to be a residential development unless the land is restricted to nonresidential use on the final plat and all deeds and contracts for deeds.

Section 2.2. Water Facilities Development.

(a) Public Water Systems.

- (1) Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility in substantially the form attached in Appendix 1A. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat. Figure: Appendix 1A
- (2) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the TNRCC. The public water system, the quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC 290.38 – 290.51 and 290.101 – 290.120. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of groundwater availability study which shall include an analysis of the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply, the subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

- (b) Non-public water systems. Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, a test well or wells located so as to be representative of the quantity and quality of water generally available from the supplying aquifer shall be drilled by the subdivider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity of the available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC 290.103, 190.106 and 290.110, either:
 - (1) without any treatment to the water; or
 - (2) with treatment by an identified and commercially available water treatment system.
- (c) Transportation of potable water. The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute an emergency.

Section 2.3. Wastewater Disposal.

- (a) Organized sewerage facilities.
 - (1) Subdividers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the TNRCC in accordance with 30 TAC Chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 317 from the TNRCC.
 - (2) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement in substantially the form attached in Appendix 1B with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is available to each lot upon completion of construction of the wastewater facilities described on the final plat. Engineering plans for the proposed wastewater collection lines must comply with 30 TAC Chapter 317. Figure Appendix 1B
- (b) On-site sewerage facilities.
 - (1) On-site facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of no greater than 5,000 gallons per day must comply with 30 TAC Chapter 285.
 - (2) Proposals for sewerage facilities for the disposal of sewage in the amount of 5,000 gallons per day or greater must comply with 30 TAC Chapter 317.
 - (3) The TNRCC or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that

the system is in compliance with the Texas Health and Safety Code, Chapter 366 and rules in 30 TAC Chapter 285, and in particular 285.4, 285.5, and 285.30-285.39. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC 285.3(b), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

Section 2.4. Greywater Systems for Reuse of Treated Wastewater.

- (a) Organized or municipal sewerage systems. Any proposal for sewage collection, treatment and disposal which includes greywater reuse shall meet minimum criteria of 30 TAC Chapter 210 promulgated and administered by the TNRCC.
- (b) On-site sewerage facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 30 TAC Chapter 285.

Section 2.5. Sludge Disposal. The disposal of sludge from water treatment and sewerage facilities shall meet the criteria of 30 TAC Chapter 312 and Chapter 317.

Section 2.6. Setbacks. In areas that lack a nationally recognized fire code as listed in Local Government Code, 235.002(b)(2) and lack water lines sized for fire protection, setbacks from roads and right-of-ways shall be a minimum of 10 feet, setbacks from adjacent property lines shall be a minimum of five feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies. Setback lines required elsewhere in the orders or rules of the county shall control to the extent greater setbacks are therein required.

Section 2.7. Number of Dwellings Per Lot. No more than one single family detached dwelling shall be located on each lot. A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Proposals which include multi-family residential shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type and design.

DIVISION 3. PLAT APPROVAL

Section 3.1. Applications for Plat Approval.

- (a) Owner representation. An application for approval of a plat shall be filed with the county by the record owner of the property to be subdivided or the duly authorized agent of the record owner.
- (b) Standards. Every plat creating two or more lots of ten acres or less for residential use shall comply with the standards of Division 2 and the requirements of Division 3 of these rules.

Section 3.2. Final Engineering Report. The final plat shall be accompanied by an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the county shall be provided for those unconstructed water supply

and distribution facilities and wastewater collection and treatment facilities which are necessary to serve each lot of the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under Section 3.4 of this title, the schedule shall include the start dates and completion dates.

(a) Public Water Systems.

(1) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish and executed contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1A and referenced in Section 2.2(a)(1) of this title. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project which may include in addition to the county the TNRCC and the county health department. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include comments regarding the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.

(2) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the TNRCC and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include an analysis of the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

(b) Non-public water systems. Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with Section 2.2(b) of this title. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to Section 2.2(b) of this title does not meet the water quality standards as set forth in that section without treatment by an identified an commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the county at which the system is available for purchase, and the cost of such system , the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed subdivision over the next 30 years. Such statement may be based on information available from the Texas

Water Development Board's Office of Planning. The description of the required sanitary control easement shall be included.

- (c) Organized sewerage facilities.
 - (1) Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1B and referenced in Section 2.3(a)(2) of this title. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the TNRCC and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.
 - (2) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the TNRCC. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the TNRCC and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.
- (d) On-site sewerage facilities. Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC 285.4(c), including the site evaluation described by 30 TAC 285.30 and all other information required by the county's OSSF order.

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

- (1) layout of proposed street and drainage work;
- (2) legal description of the property;
- (3) existing area features;
- (4) topography;
- (5) flood plains;
- (6) description of existing easements;
- (7) layout of other utilities;
- (8) notation of deed restrictions;
- (9) public use areas; or
- (10) proposed area features.

Section 3.4. Financial Guarantees for Improvements.

(a) Applicability. If an adequate public or non-public water system or sewerage facility is not available from a retail public utility, or are not constructed by the subdivider, to serve lots intended for residential purposes of ten acres or less at the time final plat approval is sought, then the commissioners court shall require the owner of the subdivided tract to execute an agreement with the county in substantially the form attached in Appendix 2A secured by bond, irrevocable letter of credit, or other alternative financial guarantee such as cash deposit which meet the requirements set forth below. Figure: Appendix 2A

(b) Bonds. A bond that is submitted in compliance with subsection (a) of this section shall meet the following requirements.

- (1) The bond or financial guarantee shall be payable to the county judge of the county, in his official capacity, or the judge's successor in office.
- (2) The bond or financial guarantee shall be in an amount determined by the commissioners court to be adequate to ensure proper construction or installation of the public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.
- (3) The bond shall be executed with sureties as may be approved by the commissioners court. The county shall establish criteria for acceptability of the surety companies issuing bonds that include but are not limited to:
 - (A) registration with the Secretary of State and be authorized to do business in Texas;
 - (B) authorization to issue bonds in the amount required by the commissioners court; and
 - (C) rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury.
- (4) The bond shall be conditioned upon construction or installation of water and wastewater facilities meeting the criteria established by Division 2 of these rules and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the commissioners court.

(c) Letter of Credit. A letter of credit that is submitted in compliance with subsection (a) of this section shall meet the following requirements.

- (1) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$10,000 and less than \$250,000 must be from financial institutions which meet the following qualifications.
 - (A) Bank qualifications:
 - (i) must be federally insured;
 - (ii) Sheshunoff rating must be 10 or better and primary capital must be at least 6.0% of total assets; and
 - (iii) total assets must be at least \$25 million.
 - (B) Savings and loan association qualifications:
 - (i) must be federally insured;
 - (ii) tangible capital must be at least 1.5% of total assets and total assets must be greater than \$25 million or tangible capital must be at least 3.0% of total assets if total assets are less than \$25 million; and
 - (iii) Sheshunoff rating must be 30 or better.

- (C) Other financial institutions qualifications:
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and
 - (ii) the investment instrument must be registered in the county's name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (2) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$250,000 must be from financial institutions which meet the following qualifications.
 - (A) Bank qualifications:
 - (i) must be federally insured;
 - (ii) Sheshunoff rating must be thirty or better and primary capital must be at least 7.0% of total assets; and
 - (iii) total assets must be at least \$75 million.
 - (B) Savings and loan association qualifications:
 - (i) must be federally insured;
 - (ii) tangible capital must be at least 3.0% of total assets and total assets must be greater than \$75 million, or tangible capital must be at least 5.0% of total assets if total assets are less than \$75 million; and
 - (iii) Sheshunoff rating must be 30 or better.
 - (C) Other financial institution qualifications:
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and
 - (ii) the investment instrument must be registered in the county's name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (3) The letter of credit shall list as sole beneficiary the county judge of the county, in his official capacity, or the judge's successor in office, and must be approved by the county judge of the county. The form of the letter of credit shall be modeled after the form attached in Appendix 2B. Figure: Appendix 2B
- (4) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Division 2 of these rules and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the commissioners court.
- (d) Financial guarantee. The county will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.
- (e) Alternative to county accepting a financial guarantee. The county may approve a final plat under this section without receiving a financial guarantee in the name of the county if:
 - (1) the property being subdivided lies wholly within the jurisdiction of the county;

- (2) the property being subdivided lies wholly within the extra-territorial jurisdiction of a municipality; and
- (3) the municipality has executed an interlocal agreement with the county that imposes the obligation on the municipality to:
 - (A) accept the bonds, letters of credit, or other financial guarantees, that meet the requirements of this section;
 - (B) execute the construction agreement with the subdivider; and
 - (C) assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

Section 3.5. Review and Approval of Final Plats.

- (a) Scope of review. The county will review the final plat to determine whether it meets the standards of Division 2 and the requirements of Division 3 of these rules.
- (b) Disapproval authority. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under these rules.
- (c) Prerequisites to approval. Final plat approval shall not be granted unless the subdivider has accomplished the following:
 - (1) dedicated the sites for adequate water and sewerage facilities identified in the final plat to the appropriate retail public utility responsible for operation and maintenance of the facilities; and
 - (2) provided evidence that the water facilities and sewerage facilities have been constructed and installed in accordance with the criteria established within these rules and the approvals from TNRCC of the plans and specifications for such construction, including any change orders filed with these agencies; or
 - (3) obtained all necessary permits for the proposed water facilities and sewerage facilities (other than for OSSF permits on individual lots within the proposed subdivision) and has entered into a financial agreement with the county secured by a bond or other alternative financial guarantee such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in Division 3 of these rules.

Section 3.6. Time Extensions for Providing Facilities.

- (a) Reasonableness. The commissioners court may extend, beyond the date specified on the plat or the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if:
 - (1) any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with Section 3.4 are submitted which will be effective for the period of the extension; and
 - (2) the court finds the extension is reasonable and not contrary to the public interest.
- (b) Timeliness. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.
- (c) Unreasonableness. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Division 2 of these rules.

Section 3.7. Criteria for Subdivisions that Occurred Prior to September 1, 1989.

- (a) Authority and scope. This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before September 1, 1989 and have not been platted or recorded. This section is in addition to the authority of the county to grant a delay or variance pursuant to Local Government Code 232.043 or a rule of the county adopted pursuant to such provision.
- (b) Purpose. It is the purpose of this section to promote the public health of the county residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the jurisdiction of this county, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the county.
- (c) Required plat. In the event that the owner of tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the commissioners court, and filed, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the commissioners court as provided in this section in lieu of the filing of a plat of the subdivision.
- (d) Special criteria. The commissioners court may approve the plat of a residential lot which does not comply with the provisions of Section 1.5(b) of this title (sale restrictions), Section 2.6 of this title (Setbacks), Section 2.7 of this title (Number of Dwellings per lot), Section 3.2 of this title (Final Engineering Report), and Section 3.4 of this title (Financial Guarantees for Improvements) as applied to an individual subdivided lot if such approval is in harmony with the general purpose and intent of these rules so that the public health, safety, and welfare may be secured and substantial justice done.
 - (1) Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.
 - (2) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the division, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the commissioners court may request to support the application, including:
 - (A) a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;
 - (B) the name and address of the original subdivider or the subdivider's authorized agent, if known;
 - (C) a survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and

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

DIVISION 4. ENFORCEMENT

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

Section 4.2. General Enforcement Authority of County. The provisions of these rules are enforceable pursuant to the specific provisions hereof related to enforcement and state law including Water Code, Chapter 7 and 16.352, 16.353, 16.354, 16.3545, and Local Government Code 232.037 and 232.080.

LaSalle County

APPENDIX 1A. WATER SERVICE AGREEMENT

AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED
_____ SUBDIVISION

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

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

TERMS: This Agreement is entered in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to LaSalle County for its approval. The Subdivider plans to construct for the Subdivision a drinking water distribution system to be connected to the Utility's public water system. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the drinking water flow anticipated to be needed by the subdivision under fully built-out conditions (the anticipated water flow) to be approximately _____ gallons daily.

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

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

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

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

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

This Agreement is effective on _____, 20 ____ .

The Utility

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

The Subdivider

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

LaSalle County

APPENDIX 1B. WASTEWATER SERVICE AGREEMENT

**AGREEMENT REGARDING WASTEWATER SERVICE FOR THE PROPOSED
_____ SUBDIVISION**

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

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

TERMS: This Agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to LaSalle County for its approval. The Subdivider plans to construct for the Subdivision a wastewater collection system to be connected to the Utility's wastewater treatment system. Such wastewater will consist of domestic sewage, i.e., waterborne human waste and waste from domestic activities such as bathing, washing, and food preparation. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the wastewater flow projected from the Subdivision under fully built-out conditions (the projected wastewater flow) to be approximately ____ gallons daily.

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

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

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

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

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

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

This Agreement is effective on _____, 20_____.

The Utility

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

The Subdivider

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

LaSalle County

APPENDIX 2A: SUBDIVISION CONSTRUCTION AGREEMENT

1. Parties. The Subdivision Construction Agreement (the Agreement) is by and between the County and the Subdivider. The County is LaSalle County, Texas, acting by and through its Commissioners Court, or authorized representative as designated by the Commissioners Court. The Subdivider is _____, who is the owner, or the authorized agent of owner, of a tract of land located within the geographic area and jurisdiction of the County.

2. Effective Date. This Agreement is effective on the date the County approves the final plat for the subdivision described in Paragraph 3 of this agreement (the Effective Date).

Recitals

3. Subdivider is the owner of the land included in the proposed final subdivision plat of the subdivision, as shown in County's File Number (the Subdivision) and more particularly described by the metes and bounds description attached and incorporated into this Agreement as Exhibit A (the Property); and

4. Subdivider seeks authorization from the County to subdivide the Property in accordance with the requirements imposed by Texas statute and the County's ordinances, regulations, and other requirements; and

5. County ordinances require the completion of various improvements in connection with the development of the Subdivision to protect the health, safety, and general welfare of the community and to limit the harmful effects of substandard subdivisions; and

6. The purpose of this Agreement is to protect the County from the expense of completing subdivision improvements required to be installed by the Subdivider; and

7. This agreement is authorized by and consistent with state law and the County's ordinances, regulations, and other requirements governing development of a subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

Subdivider's Obligations

8. Improvements. The Subdivider agrees to construct and install, at Subdivider's expense, all subdivision improvements required to comply with County orders, ordinances, regulations, and policies governing subdivision approval, specifically including without limitation those improvements listed on Exhibit B attached and incorporated by reference into this Agreement (collectively, the Improvements, any one of which is an Improvement). All Improvements shall be constructed in conformity to the County's requirements, procedures, and specifications, pursuant to construction plans, permits, and specifications approved by the County prior to

commencement of construction, and subject to inspection, certification, and acceptance by the County.

9. Completion. Unless a different time period is specified for a particular Improvement in Exhibit B, construction of all the Improvements shall be completed no later than three (3) years after the Effective Date (the Completion Date); provided, however, that if the Subdivider or the Issuer delivers to the County no later than the Completion Date a substitute Letter of Credit satisfying the criteria established by Paragraph 11 and which has an expiration date no earlier than one year from the Completion Date, then the Completion Date shall be extended to the expiration date of that substitute Letter of Credit or any subsequent substitute Letter of Credit provided in accordance with this Paragraph. Upon completion of each of the Improvements, the Subdivider agrees to provide to the County a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

10. Warranty. The Subdivider warrants the Improvements constructed by Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees will be free from defects for a period of one (1) year from the date the County accepts the dedication of a completed Improvement or group of Improvements (the Warranty Period), as such Improvement or group of Improvements is separately identified and listed in Exhibit B, except the Subdivider does not warrant the Improvements for defects caused by events outside the control of the Subdivider of the Subdivider's agents, contractors, employees, tenants, or licensees. The Subdivider agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities. As a condition of the County's acceptance of dedication of any of the Improvements, the County may require the Subdivider to post a maintenance bond or other financial security acceptable to the County to secure the warranty established by this Agreement. If the Improvements have been completed but not accepted, and neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, at the written request of the Subdivider or the Issuer the County shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to an amount equal to the face amount of the maintenance bond or other financial security acceptable to the County.

11. Security. To secure the performance of Subdivider's obligations under this Agreement, Subdivider agrees to provide adequate financial guarantees of performance in the form of a surety bond acceptable to the County, a cash deposit to be held by the County in escrow, or an irrevocable letter of credit in the amount of _____ Dollars (\$ _____) (the Stated Amount), which amount is the estimated total cost of constructing each of the Improvements as shown on Exhibit B. If a letter of credit is provided pursuant to this Agreement, it shall be in a standard form acceptable to the County, shall have an expiration date no earlier than one year from the date of its issuance, and shall be issued by a financial institution having a rating equivalent to the minimum acceptable rating established under the County's financial institution rating system in effect at the time the initial letter of credit is issued pursuant to this Agreement (the Issuer). During the term of this Agreement and subject to the terms of Paragraph 22 of this Agreement, the County may revise the standard form letter of credit it reasonably considers acceptable and necessary to secure the performance of the Subdivider's obligations under this agreement. A

letter of credit satisfying the criteria of this Paragraph (and any substitute or confirming letter of credit) is referenced in this agreement as the "Letter of Credit."

12. Reduction In Letter of Credit. After the acceptance of any Improvement, the amount which the County is entitled to draw on the Letter of Credit shall be reduced by an amount equal to ninety percent (90%) of the Quoted cost of the accepted Improvement, as shown on Exhibit B. Upon completion of an Improvement, at the written request of the Subdivider or Issuer, and if neither the Subdivider nor Issuer is then in default under this agreement or the Letter of Credit, the County shall complete, execute, and deliver to the Issuer a reduction letter verifying the acceptance of the Improvement and documenting that the Stated Amount has been reduced by stating the balance of the Stated Amount remaining after the reduction required by the first sentence of this Paragraph. No later than sixty (60) days after its receipt of a written request to reduce the Stated Amount submitted by the Subdivider or the Issuer, the County shall determine the Estimated Remaining Cost and shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to the Estimated Remaining Cost if the County determines the Stated Amount exceeds the Estimated Remaining Cost. Notwithstanding the preceding sentence, the County shall not be required to authorize reductions in the Stated Amount more frequently than every ninety (90) days. As used in this Paragraph, "Estimated Remaining Cost" means the amount the County estimates to be the cost of completing all Improvements which are incomplete as of the time of such estimate.

County's Obligations

13. Inspections and Certificate. The County agrees to inspect Improvements during and at the completion of construction and, if completed in accordance with the standards and specifications for such Improvements, to certify the Improvements as being in compliance with the county standards and specifications. The inspections and certifications will be conducted in accordance with standard County policies and requirements. The Subdivider grants the County, its agents, employees, officers, and contractors an easement and license to enter the Property to perform such inspections as it deems appropriate.

14. Notice of Defect. The County will provide timely notice to the Subdivider whenever inspection reveals that an Improvement is not constructed or completed in accordance with the standards and specifications for health or safety, and the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than five (5) days and the County may declare a default under this Agreement if not satisfied that the defect is cured after the cure period. Any cure period should be reasonable in relation to the nature of the default.

15. Use of Proceeds. The County will disburse funds drawn under the Letter of Credit only for the purposes of completing the Improvements in conformance with the County's requirements and specifications for the Improvements, or to correct defects in or failures of the Improvements. The Subdivider has no claim or rights under this Agreement to funds drawn under the Letter of Credit or any accrued interest earned on those funds. All funds obtained by the County pursuant to one or more draws under the Letter of Credit shall be maintained by the County in an interest bearing account or accounts until such funds, together with accrued interest thereon (the Escrowed Funds), are disbursed by the County. The County may disperse all or

portions of the Escrowed funds as Improvements are completed and accepted by the County, or in accordance with the terms of a written construction contract between the County and a third party for the construction of Improvements. Escrowed Funds not used or held by the County for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with interest accrued thereon, shall be paid by the County to the Issuer of the Letter of Credit no later than sixty (60) days following the County's acceptance of the Improvement or its decision not to complete the Improvement using Escrowed Funds, whichever date is later.

16. Return of Excess Escrowed Funds. No later than sixty (60) days after its receipt of a written request from the Subdivider or the Issuer to return Excess Escrowed Funds to the Issuer, the County shall disburse to the Issuer from the Escrowed Funds all Excess Escrowed Funds. For purposes of this Paragraph, "Excess Escrowed Funds" means the amount of Escrowed Funds exceeding one hundred ten percent (110%) of the estimated cost of constructing Improvements the County intends to construct but which have not been accepted, as such cost is shown on Exhibit B. Notwithstanding the first sentence in this Paragraph, the County shall not be required to disburse Excess Escrowed Funds more frequently than every ninety (90) days.

17. Cost Participation by County. If the County and Subdivider agree the County will participate in the expense of installing any of the improvements, the respective benefits and obligations of the parties shall be governed by the terms of a Community Facilities Construction Agreement executed by the parties thereto, and the terms of that agreement shall control to the extent of any inconsistency with this Agreement.

18. Conditions of Draw on Security. The County may draw upon any financial guarantee posted in accordance with Paragraph 11 upon the occurrence of one or more of the following events:

- (a) Subdivider's failure to construct the Improvements in accordance with paragraph 8 of this Agreement;
- (b) Subdivider's failure to renew or replace the Letter of Credit at least forty-five (45) days prior to the expiration date of the Letter of Credit;
- (c) Subdivider's failure to replace or confirm the Letter of Credit if the Issuer fails to maintain the minimum rating acceptable to the County, in accordance with Paragraph 11 of this Agreement; or
- (d) Issuer's acquisition of the Property or a portion of the Property, through foreclosure or an assignment or conveyance in lieu of foreclosure.

The County shall provide written notice of the occurrence of one or more of the above events to the Subdivider, with a copy provided to the Issuer. Where a Letter of Credit has been provided as the financial guarantee, with respect to an even described by subparagraph (a), the County shall provide notice to the Subdivider and the Issuer of the specific default and the notice shall include a statement that the County intends to perform some or all of the Subdivider's obligations under Paragraph 8 for specified Improvements if the failure is not cured. The notice with respect to a default under subparagraph (a) shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit, unless, in the reasonable opinion of the County, the failure creates an immediate and substantial harm to the public health or safety, in which case the notice

shall state why the failure creates an immediate and substantial harm to the public health or safety, and shall be given no less than five (5) days before presentation of a draft on the Letter of Credit. In the event of a draw based on subparagraph (a), the County shall be entitled to draw in the amount it considers necessary to perform Subdivider's obligations under Paragraph 8, up to the amount allocated according to Exhibit B for any Improvement it states its intent to construct or complete in accordance with the standards and specifications for such improvement. The subdivider hereby grants the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such Improvements. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraphs (b), (c), or (d), the notice shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit. In lieu of honoring a draft based on an event described in subparagraphs (b) or (c), the Issuer or the Subdivider may deliver to the County a substitute Letter of Credit if the event is described by subparagraph (b) or a substitute or confirming Letter of Credit if the event is described by subparagraph (c). If the Issuer has acquired all or a portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure, in lieu of honoring a draft based on an event described in subparagraph (d), the Issuer may deliver to the County a substitute or confirming Letter of Credit.

19. Procedures for Drawing on the Letter of Credit. The County may draw upon the Letter of Credit in accordance with Paragraph 18 by submitting a draft to the Issuer in compliance with the terms of the Letter of Credit governing such draft. The Letter of Credit must be surrendered upon presentation of any draft which exhausts the Stated Amount of such Letter of Credit. The County may not draft under a Letter of Credit unless it has substantially complied with all its obligations to the Issuer under this Agreement and has properly completed and executed the draft in strict accordance with the terms of the Letter of Credit.

20. Measure of Damages. The measure of damages for breach of this Agreement by the Subdivider is the reasonable cost of completing the Improvements in conformance with the County's requirements, procedures, and specifications. For Improvements upon which construction has not begun, the estimated cost of the Improvements shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount or the amount of the Letter of Credit establishes the maximum amount of the Subdivider's liability.

21. Remedies. The remedies available to the County, the Subdivider, and Issuer under this Agreement and the laws of Texas are cumulative in nature.

22. Provisions for Benefit of the Issuer. The provisions of Paragraphs 9, 10, 11, 12, 15, 16, 18, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, and 36 of this Agreement for the benefit of the Issuer may not be modified, released, diminished, or impaired by the parties without the prior written consent of the Issuer.

23. Third Party Rights. No person or entity who or which is not a party to this Agreement shall have any right of action under this Agreement, nor shall any such person or entity other than the County (including without limitation a trustee in bankruptcy) have any interest in or claim to funds drawn on the Letter of Credit and held in escrow by the County in accordance

with this Agreement. Notwithstanding the preceding sentence, the Issuer shall have a right of action to enforce any provision of this Agreement where the Issuer is specifically named as a beneficiary of such provision pursuant to Paragraph 22.

24. Indemnification. The Subdivider hereby expressly agrees to indemnify and hold the County harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the County if the County is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act of negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements, except where such suit is brought by the Subdivider. The Subdivider is not an employee or agent of the County. Notwithstanding anything to the contrary contained in this agreement, the Subdivider does not agree to indemnify and hold the County harmless from any claims, demands, costs, or liabilities arising from any act or negligence of the County, its agents, contractors, employees, tenants, or licensees.

25. No Waiver. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute continuing waiver unless expressly provided for by a written amendment to this Agreement; nor will the waiver of any default under this agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by the County, the Subdivider, or the Issuer, their heirs, successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

26. Attorney's Fees. Should either party or the Issuer, to the extent Issuer is named as specific beneficiary, be required to resort to litigation to enforce the terms of this agreement, the prevailing party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in their entirety.

27. Assignability. The benefits and burdens of this Agreement are personal obligations of the Subdivider and also are binding on the heirs, successors, and assigns of the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the express written approval of the County. The County's written approval may not be withheld if the Subdivider's assignee explicitly assumes all obligations of the Subdivider under this agreement and has posted the required security. The County agrees to release or reduce, as appropriate, the Letter of Credit provided by the Subdivider if it accepts substitute security for all or any portion of the Improvements. The County, in its sole discretion, may assign some or all of its rights under this Agreement, and any such assignment shall be effective upon notice to the Subdivider and the Issuer.

28. Expiration. This Agreement shall terminate upon the expiration of the approval of the proposed final plat of the Subdivision or if the Subdivision is vacated by the Subdivider.

29. Notice. Any notice required or permitted by this Agreement is effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

If to Subdivider:

Attn: _____

Printed Name: _____

Office or Position: _____

Address: _____

If to County:

Attn: _____

Printed Name: _____

Office or Position: _____

Address: _____

If to the Issuer: _____ at Issuer's address shown on the Letter of Credit.

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of the change is provided to the other party in accordance with the provisions of this Paragraph.

30. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

31. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement or the Issuer, whether arising out of or relating to the Agreement or the Letter of Credit, will be deemed to be proper only if such action is commenced in District Court for LaSalle County, Texas, or the United States District Court for the 81st District of Texas, _____ Division. The Subdivider expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal. The Issuer, by providing a Letter of Credit pursuant to the terms of this Agreement, expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal.

Description of Improvement(s)

Estimated Cost of Completion

a)

b)

c)

Comprehensive Subdivision Regulation (adopted 4/8/2013)
Tab 3

COMPREHENSIVE SUBDIVISION REGULATIONS
PURSUANT TO CHATER 232, TEXAS LOCAL GOVERNMENT CODE
ADOPTED APRIL 8, 2013

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ARTICLE I

1. PREAMBLE AND PURPOSE.

- 1.1 These Subdivision and Development Regulations have been adopted by an Order of the Commissioners Court of LaSalle County, Texas, and are intended to promote the public safety and the general welfare of the County, and to provide a framework for the orderly, safe, efficient, and healthful development of the unincorporated parts of LaSalle County.
- 1.2 These Regulations apply to all unincorporated areas of LaSalle County, except for those areas within the Extra-Territorial Jurisdiction of a city with which the County has a specific, written policy delegating its responsibility for subdivision oversight to that city or to a joint City-County review procedure.
- 1.3 These Regulations are intended to provide property owners a comprehensive set of rules and procedures that allow for the reasonable and rightful use of their land while also providing protections for the community and for neighboring landowners, as well as for orderly and safe subdivision development throughout LaSalle County.
- 1.4 These Subdivision Regulations have been adopted based on the following findings:
 - 1.4.1 LaSalle County's location along Interstate 35 and within a triangle of the major, high-growth urban areas of San Antonio, Laredo, and Corpus Christi, along with unprecedented oil & gas development in the Eagle Ford Shale Field means the County is likely to see substantial subdivision development and population growth in the coming years; and,
 - 1.4.2 Substantial population growth and unchecked land development, without proper regulation and management, have caused road safety, economic, health and environmental problems in other communities, and – left unmanaged – would be likely to cause similar problems in LaSalle County; and,
 - 1.4.3 These problems mentioned in 1.4.1 and 1.4.2 (above) would be likely to further strain County infrastructure, devalue existing property, impose an unwarranted tax burden on the citizens of the County, threaten the natural resources, natural beauty and historic character of the County, undermine efficient traffic management, and impede road maintenance, 9-1-1 addressing, emergency response, adequate water and utility availability, the healthful disposal of waste water, the control of disease, floodplain management, and generally to have an adverse affect on the public health, safety, and general welfare in LaSalle County; and

- 1.4.4 The State of Texas has authorized the Commissioners Courts of Texas Counties, including LaSalle County, to regulate the subdivision of land pursuant to Local Government code, §232.001 et. Seq. In this regard, LaSalle County specifically adopts all applicable sub-chapters of Chapter 323 of the Texas Local Government Code, and specifically the broader authority extended by Sub-Chapter E of Chapter 232, Texas Local Government Code; and
- 1.4.5 The Commissioners Court of LaSalle County, at the time of the adoption of this Regulation, contracts with the Texas Commission on Environmental Quality to administer on-site septic facilities. The County shall continue to utilize the services of TECQ to issue all permits and perform inspection services of such OSSF facilities and plats for compliance with applicable law until such time as a unified program working in conjunction with the City may be organized and created.
- 1.4.6 Should the Commissioners Court determine that local administration is appropriate, the County will seek to be designated by the Texas Commission on Environmental Quality as the authorized agent for the licensing and regulation of on-site sewerage facilities within LaSalle County and these Regulations are a necessary component of such regulation; and
- 1.4.7 The Commissioners Court of LaSalle County has the authority and obligation to exercise general control over the roads, highways, bridges and related drainage structures and development within LaSalle County, and
- 1.4.8 The Commissioners Court of LaSalle County has been granted the authority and responsibility under the Federal Emergency Management Act to administer flood plain development regulations within the County and to regulate associated development; and
- 1.4.9 The Commissioners Court of LaSalle County has considered the potential pollution, nuisances and injury to public health that could be caused by the use of private sewerage facilities within the County and has adopted these regulations to abate or prevent the potential pollution, nuisances or injury to public health; and
- 1.4.10 These Regulations are enacted to implement the powers conveyed to counties under the laws of the State of Texas, including but not limited to Chapter 232 of the Texas Local Government Code, (authority regarding the subdivision of land and manufactured home rental communities), Chapter 245 of the Texas Local Government Code, Chapter 251 of the Texas Transportation Code, (general control over all roads, highways and bridges), Chapter 366 of the Texas Health and Safety Code (county solid

waste disposal systems), Chapter 181 of the Texas Utilities Code (regulation of oil, gas, telephone, television and telegraph utility lines within county right-of-way), Chapter 49, Texas Water Code (authority to regulate water lines within county right of way), Chapter 343, Texas Health and Safety Code (authority to regulate public nuisance), Texas Local Government Code Ann. Section 242.001 (authority to regulate subdivisions pursuant to all statutes applicable to counties within the extra-territorial jurisdiction of municipalities), Texas Health and Safety Code Ann. Section 366.032 and 368.011 (authority to adopt rules relating to on-site sewerage facilities), Texas Health and Safety Code Section 121.003 and 122.001 (authority to enforce laws and appropriate funds necessary to protect public health), Chapter 16, Texas Water Code (authority to set standards for subdivision construction within flood plain and to guide development of future development to minimize damage caused by floods), Chapter 54, Texas Water Code (regulation of municipal utility districts), Chapter 26, Texas Water Code (authority to adopt rules to prevent pollution or injury to public health arising from use of on-site sewerage facilities. And Chapter 35, Texas Water Code Section (certification of water availability); and

- 1.4.11 The Commissioners Court of LaSalle County has considered the potential burden on present and future landowners and taxpayers of substandard development or poor quality road construction; and
- 1.4.12 The Commissioners Court of LaSalle County recognizes the importance of an interconnected road system throughout LaSalle County to provide efficient access by emergency vehicles and school transportation vehicles, and the responsible role of the Commissioners Court to ensure an appropriate level of road connectivity through the subdivision process; and
- 1.4.13 The Commissioners Court has considered the potential burden to private property rights, to property owners, and to taxpayers, of these Rules and Regulations, and has further considered the potential burden to property owners and taxpayers of substandard development, poor quality roads and infrastructure planning, especially in areas of poor soil condition, of flooding and unsafe development that might reasonably be expected to occur in the absence of these Regulations; and, finally
- 1.4.14 The Commissioners Court has determined that these Regulations should apply broadly but the Court, in Article IV of these Regulations, has provided for exceptions consistent with state law.

- 1.5 The Commissioners Court of LaSalle County, having consulted with professionals in the field of engineering and land planning, and following public notice, investigation and hearing, has declared and hereby declares these Regulations to

be necessary and appropriate to protect the public health and welfare of LaSalle County, and to safeguard the private property rights of citizens.

- 1.6 The Commissioners Court of LaSalle County, having previously adopted the Revised Model Subdivision Rules Pursuant to Chapter 16 of the Texas Water Code, (See Appendix E hereto) hereby intends, by the adoption of these additional subdivision rules and regulations, to afford the maximum protection to the public health and safety. Where there is any conflict between the Model Rules under Chapter 16 of the Water Code, and Subdivision Rules and Regulations adopted pursuant to Chapter 232 of the Texas Local Government Code, the more stringent set of rules shall apply.

ARTICLE II

2. DEFINITIONS.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. If a word or term used in this chapter is not contained in this section, it shall have the same definition and meaning as used in the practices applicable to hydrology and aquifer testing.

- 2.1 Acre. A unit of area equal to 43,560 square feet. When calculating the acreage of any Lot the gross square footage within the Lot shall be used.
- 2.2 Applicant. An Owner or its authorized representative seeking approval of a proposed Subdivision pursuant to these Regulations.
- 2.3 Application. A county-provided form completed by an applicant and accompanied by multiple prints of plans or plats and by support documents as required by these regulations.
- 2.4 Aquifer. A geologic formation, group of formations, or part of a formation that contains water in its voids or pores and may be used as a source of water supply.
- 2.5 Aquifer Test. A test involving the withdrawal of measured quantities of water from or addition of water to a well and the measurement of resulting changes in water level in the aquifer both during and after the period of discharge or addition for the purpose of determining the characteristics of the aquifer. For the purposes of this chapter, bail and slug tests are not considered to be aquifer tests.
- 2.6 Performance Guarantee. A guarantee of performance including but not limited to cash deposit, surety bond or letter of credit, in an amount and form acceptable to the County.
- 2.7 City. The City of Cotulla, Texas or any other incorporated municipality within the political boundaries of LaSalle County who may, by Interlocal Agreement, agree to participate in the provisions of this Regulation.
- 2.8 City/County Engineer. A Professional Engineer licensed by the State of Texas, who may be retained by the City and/or County to perform professional services related to this Regulation.
- 2.9 City/County Planning Department. Pursuant to Interlocal Agreement, the City of Cotulla and LaSalle County may establish a City/County Planning Department, to be composed of: The Compliance Inspector, the City Manager, the Precinct Commissioner for any work to be performed within the political boundary of any individual Commissioners Court Precinct, and the City/County Engineer.

- 2.10 Commissioners Court. The Commissioners Court of LaSalle County composed of the County Judge and four (4) Precinct Commissioners, sitting as the official governing body for LaSalle County, Texas pursuant to Article V, Section 18 of the Texas Constitution.
- 2.11 Compliance Inspector. The individual delegated responsibility for enforcement of these regulations, together with any other related responsibilities. The Compliance Inspector shall also serve as the LaSalle County Health Inspector, who shall be responsible for the enforcement of County Health and Safety rules and regulations, including subdivision regulation enforcement and oversight, floodplain administration, on-site sewage facility inspection and enforcement, or his/her designated agent or successor. The duties of this individual office may be delegated by the Commissioners Court to an individual pursuant to an Interlocal Agreement with the City of Cotulla, to may be exercised by a County Constable or other official, or may be vested in an office under the direct management and control of the Commissioners Court. Inquire with the County Judge's office.
- 2.12 County. The county government of LaSalle County, Texas.
- 2.13 County Clerk. The County Clerk of LaSalle County.
- 2.14 Commissioner. Anyone duly elected, qualified and serving as a Precinct Commissioners of LaSalle County. Wherever this term is used wherein, it may include his or her designated representative, or any successor or predecessor in said office.
- 2.15 Development. All land modification activity, including the construction of buildings, roads, paved storage areas, parking lots and other impervious structures or surfaces, and golf courses and other recreational facilities.
- 2.16 Designated Agent. See Compliance Inspector. A person designated by express Order by the LaSalle Commissioners Court's Court to implement, or review compliance, with certain parts of these Rules.
- 2.17 Determination or Letter of Determination. The finding that an action meets or does not meet the definition of Subdivision under these Regulations, and is therefore exempt from the requirements of these regulations, or the documentation of that finding.
- 2.18 Drinking Water Standards. See Requirements Applicable to Public Water Systems.
- 2.19 ETJ. The extraterritorial jurisdiction of a municipality as determined in accordance with Chapter 42 of the Local Government Code.
- 2.20 Final Plat. A scaled drawing of a proposed Subdivision of land with survey data, notes, dedications, certifications and acceptances as required by these

Regulations, prepared to be placed on record in the official records of LaSalle County.

- 2.21 Flag Lot. A lot having the minimum required frontage on a public right of way with the largest portion of the lot area connected to the public right of way by a narrow strip of land, or “flag pole,” which is included in the lot.
- 2.22 Full Build-out. The final expected number of residences, businesses, or other dwellings in the proposed subdivision.
- 2.23 Groundwater. As defined by regulations of the TCEQ at Title 30, Texas Administrative Code.
- 2.24 Health Inspector. See Compliance Inspector.
- 2.25 Letter of Determination. See Determination.
- 2.26 Inspector. See Compliance Inspector. The LaSalle County Health Inspector, who shall be responsible for the enforcement of County Health and Safety rules and regulations, including subdivision regulation enforcement and oversight, floodplain administration, on-site sewage facility inspection and enforcement, or his/her designated agent or successor. The duties of this individual office may be delegated by the Commissioners Court to a County Constable or other official, or may be vested in an office under the direct management and control of the Commissioners Court. Inquire with the County Judge’s office.
- 2.27 Interlocal Agreement. An Agreement between two or more Governmental Entities.
- 2.28 Licensed Professional Engineer. An Engineer who maintains a current license through the Texas Board of Professional Engineers in accordance with its requirements for professional practice.
- 2.29 Lot. Any tract to be created by the division of an original tract pursuant to the proposed Subdivision application, including the remainder of the Original Tract and excluding proposed public right of way.
- 2.30 Order. The order of the Commissioners Court authorizing and implementing these Rules.
- 2.31 Original Tract. The original tract of land owned by an Owner prior to the proposed subdivision.
- 2.32 Owner. The Owner of land being subdivided.
- 2.33 Permitted Street. As defined in Section 8.1.

- 2.34 Preliminary Plan. A scaled drawing of a proposed Subdivision of Land showing the general dimensions and boundaries of each Lot, the layout of the proposed streets, drainage improvements, utility infrastructure, if any, easements, and other information required by these regulations, whose purpose is to demonstrate that the proposed subdivision is feasible and can comply with the objectives and requirements of this Order.
- 2.35 Precinct Commissioner. A member of the Commissioners Court who is elected or appointed to represent the geographic area of LaSalle County contained within each Commissioners Court Precinct, as that territory may be periodically revised following each federal census, in which the land proposed for development and subject to this Order is located.
- 2.36 Public Water System. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which, includes all uses described under the State's definition for drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system. [30 TAC 290.38(47)]
- 2.37 Qualified Expert. A hydrologist or registered professional engineer.
- 2.38 Regulations. The LaSalle County Subdivision and Development Regulations and the related Orders.
- 2.39 Requirements Applicable to Public Water Systems. The requirements in TCEQ rules covering public water systems in Title 30, Texas Administrative Code, Chapter 290, (relating to Rules and Regulations for Public Water Systems).
- 2.40 Rules. The LaSalle County Subdivision and Development Regulations and related Orders.
- 2.41 Sketch Plan. A map showing a potential subdivision of land not required to be drawn with precision, to serve as the basis for comments by the County to a

landowner or potential applicant regarding general compliance with these regulations.

2.42 Subdivision. The division of a tract of land situated wholly or partly within LaSalle County and outside the corporate limits of any municipality into two (2) or more parts, and calling for or related to the laying out of any of the following: (i) roads or streets, (ii) alleys, (iii) squares, (iv) parks, (v) public utility easements, (vi) public rights of way, (vii) drainage improvements, or (viii) other parts of the tract intended to be dedicated to public use. Note that any roads or streets identified within the subdivision, shall not become a part of the County road maintenance inventory without a separate and specific Order of the LaSalle Commissioners Courts Court which identifies the streets, or portions of such streets to be accepted for maintenance by the County.

2.42.1 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, or in a contract for deed or sale, or in other contract to convey land, or in a lease (other than agricultural, hunting, oil and gas leases), or by using any other method of a conveyance.

2.42.2 To determine whether a division of land relates to the laying out of streets, it is the County's intent to adopt a fair and practical approach that will protect public safety and infrastructure. Thus, a Lot or tract that is dependent for its access upon the dedication or construction of a street (whether public street or private) relates to that street. The County shall not accept contrivances contrary to common sense, or to good management of its road and drainage system, or that appear designed to circumvent the need to file a subdivision plat. A division of land, or proposed division of land, shall be considered as relating to the laying out of streets, whether public or private, if:

- A) The division would create one or more Lots without practical, physical vehicular access onto a permitted street.
- B) The division would create Lots with less than fifty (50) feet of direct frontage onto a permitted street, or would provide for driveways onto permitted streets that are spaced fewer than fifty (50) feet apart.
- C) The division would occur less than two years from the date of completion of construction of any street onto which the Lot has frontage, or, in the case of a public street, less than two years from the date of expiration of the performance or maintenance bond for that street.

D) The division would affect drainage on, in or adjacent to a public street or any county drainage ditch, culvert or other drainage facility.

E) Other circumstances exist which, in the determination of Commissioners Court, cause such division of land to be related to the laying out of streets or related to drainage for any street or road to which any lot has access.

2.42.3 It is the intent of the Commissioners Court of LaSalle 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.

2.43 Surface Water. As defined by the TCEQ at Title 30, Texas Administrative Code.

2.44 Surveyor. A Registered Professional Land Surveyor certified by the Texas Board of Professional Land Surveying.

2.45 TAC. Texas Administrative Code.

2.46 TCEQ. Texas Commission on Environmental Quality, (formerly Texas Natural Resource Conservation Commission - TNRCC).

2.47 Technical Review Committee. A committee delegated by the Commissioners Court to assist in the review of subdivision applications. The committee may consist of elected or appointed officials, staff or advisors. Typically, the committee may include the Precinct Commissioner, the Compliance Inspector, 9-1-1 addressing, and other members as may seem prudent, provided that no quorum of the Commissioners Court is involved. Membership in the committee may change from time to time at the discretion of the Court. The committee meetings are part of internal staff review and are not public meetings. No set number of members is required to achieve a quorum of the committee.

2.47.1 The City and LaSalle County may agree by Interlocal Agreement to form a City/County Planning Department, which shall, upon formation, be deemed to be the Technical Review Committee referred to herein.

ARTICLE III

3. GENERAL SUBDIVISION REQUIREMENTS.

- 3.1 General Requirements. Any Owner of land in LaSalle County, who wishes to divide that land into two or more parts, shall:
- 3.1.1 Comply in all respects with these regulations; and,
 - 3.1.2 Prepare and submit to the Commissioners Court an Application for development and plat approval, or a letter asking for an official determination from the County as to whether the proposed division is exempt from plat regulations;
 - 3.1.3 Some subdivision actions are excepted from platting by these Regulations. See Article IV.
- 3.2 Subdivision Approval Process. No subdivision shall be permitted until the Owner has satisfied each of the following steps in the order indicated:
- 3.2.1 Approval of Preliminary Plan by the Commissioners Court; and
 - 3.2.2 Approval of Final Plat by the Commissioners Court; and
 - 3.2.3 Filing of Record Plat with the County Clerk, to be recorded in the Plat Records of the County.
- 3.3 Communication with Precinct Commissioner. A potential Applicant is encouraged to meet with the Precinct Commissioner to discuss development ideas, understand County road plans in the area, and discuss County rules and submittal procedures with the Commissioner before the Applicant goes to the time and expense of more detailed engineering design and submittal preparation. Only a Designated Agent of the Commissioners Court may approve inspections or submittals under these Regulations. See Article V, Sketch Plan.
- 3.4 Application Materials. Each application for Preliminary Plan or Final Plat shall include the following:
- 3.4.1 Eight (8) 18"x 24" copies of the Preliminary Plan or eight (8) 18"x 24" copies of the Final Plat provided that the County may require up to four (4) additional copies of the Preliminary Plan or Final Plat (these will be used to allow public safety officials and County staff an opportunity to review the plat); and
 - 3.4.2 An original receipt for the applicable application fee; and

- 3.4.3 A tax certificate showing that all taxes currently due with respect to the original tract have been paid; and
 - 3.4.4 A completed application form in the current form promulgated by the County; and
 - 3.4.5 All other documents or reports required pursuant to these regulations and any associated bonds or letters of credit.
- 3.5 Record Plat. Two (2) duplicate original prints on 18” x 24” 4-mil mylar shall be presented to the county clerk for recording as the Record Plat. All writing and drawings of the Record Plat must be large enough to be easily legible following recording.
- 3.6 Point of Submittal. The Applicant shall submit the subdivision application and related materials to the office of the LaSalle County Judge. The submittal shall include an original fee receipt showing that the application fees have been paid to the office of the LaSalle County Clerk. In the event that the office of the County Judge is not available during normal business hours, the Applicant may deliver the submittal to the office of the County Clerk to be date stamped and forwarded internally to the office of the County Judge, but it is incumbent on the Applicant to follow up to ensure that the submittal is received by the office of the County Judge.
- 3.6.1 Upon the formation of a City/County Planning Department by Interlocal Agreement between the City and County, the Point of Submittal shall be the office of the Compliance Inspector, located in the offices of the City/County Planning Department.
- 3.7 Application Review Periods.
- 3.7.1 Preliminary Plan. The County shall provide written comments to the person who submitted the application within ten (10) business days of the submittal of a Preliminary Plan to the office of the County Judge. See Article V.
 - 3.7.2 Completeness Check. Within ten (10) business days of its receipt of an application for subdivision approval, the County shall determine whether the application is complete in accordance with Section 3.4. If an Application is determined to be incomplete, the County will give written notice of that determination to the potential Applicant, and the notice shall state the deficiencies in the submittal. If an Application is deemed complete, it will be forwarded to the Technical Review Committee.

- 3.7.3 Acceptance by the County of a completed plat application shall not be construed as approval of the Application or related documents.
- 3.7.4 Except as provided by Section Sec. 3.7.6 the Commissioners Court shall take final action on a plat Application, including the resolution of all appeals, not later than the 60th day after the date a completed plat application is received by the County.
- 3.7.5 If the Commissioners Court disapprove a plat application, the Applicant shall be given a complete list of the reasons for the disapproval.
- 3.7.6 The 60-day period under Section 3.7.4: (1) may be extended for a reasonable period, if agreed to in writing by the applicant and approved by the Commissioners Court; (2) applies only to a decision wholly within the discretion of the Commissioners Court.
- 3.7.7 The Commissioners Court shall make the determination under Section 3.7.6 of whether the 60-day period will be extended not later than the 30th day after the date, a completed plat application is received by the County.
- 3.8 Technical Review Procedure. Upon receipt of a completed application, the Technical Review Committee shall conduct a technical review of the application, and make a recommendation to Commissioners Court as to whether the application is in compliance with these Regulations.
- 3.9 Application Fees. The Applicant shall pay a nonrefundable fee in the amount set forth in Appendix D of these Regulations together with each Application for a Preliminary Plan and Final Plat approval. Commissioners Court may amend Schedule 1 from time to time without amending or affecting the remainder of these Regulations.
- 3.10 Subdivisions within ETJ of a Municipality. Whenever an Original Tract lies within the extraterritorial jurisdiction (ETJ) of a municipality and is subject to the subdivision regulations of such municipality, the subdivision shall comply with the standards and approval procedures established by the interlocal agreement between LaSalle County and the City regarding subdivisions in the ETJ. As required by the Texas Property Code, the County Clerk will not accept a record Plat for recordation unless it has been approved in accordance with such interlocal agreement.
- 3.11 Wastewater and Development Permits. Neither the TCEQ, or the County shall issue an On-Site Sewage Facility Permit or development permit on any parcel of land unless that property is in compliance with all the requirements of TCEQ Rules, and the LaSalle County Rules for On-Site Sewerage, except that:

3.11.1 A division of land occurring before June 1, 1984 shall be considered grandfathered, so long as no modification of the OSSF on that land has been made or is proposed; and

3.11.2 A complete application for subdivision approval received by the County prior to the effective date of these Rules shall be considered solely on the basis of the Regulations in effect at the time the County receives the complete application.

3.12 Standard for Approval. The intent of these rules is to lay out a clear set of procedures to govern review and approval of divisions of land and related public improvements. These are intended to provide citizens a sense of stability and surety about the process. Applicants who meet the requirements set forth in these Rules shall be approved by the Commissioners Court, unless, in exceptional circumstances, the Court makes a formal finding of fact that approval would be contrary to the public welfare and to the safe and orderly development of LaSalle County

ARTICLE IV

4. EXCEPTIONS.

4.1 Excepted Subdivisions. While these rules are intended to apply to most divisions of land in LaSalle County, some exceptions are appropriate and/or stipulated by state law. Below are several exceptions. In any of these exceptional circumstances, land owners may subdivide their land without regard to the County's normal plat approval process, provided that the Owner simply registers the subdivision as prescribed in 4.2 and 4.3 below. Note: these exceptions only apply if no public improvements are being laid out, or dedicated, as part of the subdivision. Whenever a project includes the layout, construction, or dedication of streets, alleys, squares, parks, or other areas intended to be dedicated to public use, or to use by multiple lot owners, then the standard subdivision Application and approval process shall be followed. The exceptions are:

- 4.1.1 All of the lots in the proposed division are larger than 10 acres in area (again, as with all these exceptions, no public improvements may be included in the subdivision for it to be considered an exception to the regular platting process);
- 4.1.2 The land is to be used primarily for agricultural use, as defined by Section 1-d, Article VIII, Texas Constitution, or for farm, ranch, wildlife management, or timber production use within the meaning of Section 1-d-1, Article VIII, Texas Constitution. However, if any part of a tract divided under this exception ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use as so defined, the platting requirements of this Order shall apply;
- 4.1.3 The land is divided into four or fewer parts and each of the parts is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, provided that the division is not part of a larger planned development or a sham, or a contrivance to avoid these regulations. If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the platting requirements of this Order apply.
- 4.1.4 All the lots are sold to veterans through the Veterans' Land Board program;
- 4.1.5 The land belongs to the state or any state agency, board, or commission or the permanent school fund or any other dedicated funds of the state.
- 4.1.6 The land belongs to a political subdivision of the state; and

- 4.1.7 The land is situated in a floodplain; and
 - 4.1.7.1 The lots are sold to adjoining landowners;
- 4.1.8 One new part is to be retained by the Owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of this chapter;
- 4.1.9 All parts are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.
- 4.1.10 In addition to the statutory exceptions in subparts 4.1.1 through 4.1.8, an Owner may convey one parcel out of the Owner's original tract. Unless the Commissioners Court finds that the parcel to be conveyed cannot feasibly be resubdivided in compliance with these Regulations, that parcel shall have frontage on a public street. When frontage on a public street is not required, an access easement benefiting the new parcel shall be recorded simultaneously with the deed that conveys the parcel.
- 4.2 Registration. An Owner whose division of land is excepted from the platting requirements of these regulations by way of the issuance of a Determination Letter shall register the division of land found to be exempt with the County Clerk and submit the following to the County Clerk:
 - 4.2.1 A duplicate copy of the recorded conveyance instrument, with legible metes and bounds description attached thereto; and
 - 4.2.2 A survey or sketch (which may be on tax parcel maps or other form approved by Commissioners Court) showing the boundaries of the Lots, adjacent roads and adjacent property owners; and
 - 4.2.3 An executed Determination Letter, in the form promulgated by the County, which shall require the Owner to acknowledge that all Lots remain subject to the on-site wastewater rules and development permit requirements of the county.
- 4.3 Determination Letter. On request of the Owner, the Commissioners Court shall issue a Determination Letter for presentation to the County Clerk certifying that the division of land is excepted from any platting requirements.

ARTICLE V

5. INFORMAL MEETING/SKETCH PLAN

- 5.1. Voluntary Sketch Plan. Persons interested in subdividing land in LaSalle County may wish to first meet with their Precinct Commissioner before filing a formal Application. The Precinct Commissioner can assist in determining if the project is an exception, or should be filed as a standard subdivision Application. The Precinct Commissioner, or other County staff, may also be able to help with interpretations of the rules, with insight about County road plans for the area, floodplain, or other issues. There is no charge and no application necessary for a Voluntary Sketch Plan meeting. Such meetings are at the option of the Applicant. This is an opportunity to discuss potential issues with the County before an Applicant has spent significant dollars on engineering and survey. The Applicant is encouraged to discuss the classification of roads, the nature of water and wastewater service, approximate location of known floodplain areas, and the range of lot sizes intended. A Voluntary Sketch Plan meeting is advisory in nature, and carries with it no approval, or guarantee of future approval. It is not a mandatory step in the permit process, but is highly recommended. While the Applicant is encouraged to consult the Precinct Commissioner at the Sketch Plan phase, or during the development of a Sketch Plan, it is important to note that Precinct Commissioners, as individuals, do not have the authority to approve or disapprove an application, in whole or in part; only the Commissioners Court, meeting as a body, may grant approvals under these Regulations, or grant variances or amendments to these Regulations. Any statement made by an individual Precinct Commissioner during a Voluntary Sketch Plan meeting regarding likely action by the Commissioners Court is not binding upon the County.
- 5.2. Sketch Plan May Be Skipped. Applicants who wish to may go straight to the Preliminary Plan stage. Applicants should be aware that County rules and regulations might be subject to change between the time they submit a Sketch Plan and they submit a formal Application for Preliminary Plan approval.

ARTICLE VI

6. PRELIMINARY PLAN

6.1 Purpose. The purpose of the Preliminary Plan is to demonstrate that the proposed subdivision is technically feasible and can comply with the objectives and requirements of this Order.

6.2 Required Content. A proposed Preliminary Plan shall include the following:

6.2.1 General Information.

6.2.1.1 Name of the proposed Subdivision, which shall not be the same or deceptively similar to any other subdivision within the County unless the subdivision is an extension of a pre-existing, contiguous subdivision, and

6.2.1.2 The boundary lines and total acreage of the original tract and the Subdivision; and

6.2.1.3 A note or table stating the total number of Lots within the proposed Subdivision, the size of the smallest proposed Lot within the Subdivision, and the average size of Lots.

6.2.1.4 Approximate acreage and dimensions of each Lot; and

6.2.1.5 The location of any schools, proposed schools, parks, squares, common areas, greenbelts, preserves, landscape easements, conservation areas or conservation easements, or other public use facilities, with identification of the entity proposed to own and maintain each; and

6.2.1.6 Names of adjoining subdivisions and Owners of tracts contiguous to the proposed subdivision; and

6.2.1.7 Name and address of the Surveyor and Engineer; and

6.2.1.8 Name and address of the Owner, and Developer or Applicant if not the Owner; and

6.2.1.9 Area Map showing general location of Subdivision in relation to major roads, towns, cities, rivers or topographic features; and

- 6.2.1.10 North arrow, scale and date. The scale shall not exceed 200' per inch (1" = 200'); and
- 6.2.1.11 Boundary lines of any incorporated city and the limit of the extraterritorial jurisdiction of any city; and
- 6.2.1.12 The location of school district boundaries and a statement clearly indicating in which school district(s) the Subdivision is located. In the event any Lot lies within more than one school district then the plat shall clearly state the number of acres within the Lot that lies within each school district.

6.2.2 Flood Plain and Drainage Information.

- 6.2.2.1 Elevation contours at not greater than ten foot (10') intervals, based on NAVD 88' datum and the source of the contour data; and
- 6.2.2.2 All Special Flood Hazard Areas identified by the most current Flood Insurance Rate Maps published by the Federal Emergency Management Agency; and
- 6.2.2.3 For each lot containing 100-year flood plain, sufficient additional contours to identify and delineate the 100-year flood plain and regulatory floodway, if any. If base flood elevations have not already been established, they shall be established by a method satisfactory to the Floodplain Administrator; and
- 6.2.2.4 For each subdivision containing 100-year flood plain, at least one benchmark showing NAVD 88' elevation, as well as latitude and longitude; and
- 6.2.2.5 A drainage plan depicting the anticipated flow of all drainage onto and from the subdivision and showing all major topographic features on or adjacent to the property including all water courses, 100-year flood plain boundaries, ravines, bridges and culverts; and
- 6.2.2.6 The location and size of all proposed drainage structures, including on-site retention or detention ponds and easements and the impact of lot and street layouts on drainage; and

6.2.2.7 Depiction of all streams, rivers, ponds, lakes, other surface water features or any Sensitive Features (as defined by the Texas Commission on Environmental Quality in 30 Texas Administrative Code §213.3) and a statement certified by the Surveyor or Engineer under his or her professional seal that, to the best of his or her knowledge, the plat accurately reflects the general location (or absence) of all sensitive features in accordance with the terms of these regulations.

6.2.3 Street and Right-of-Way Information.

6.2.3.1 Location, length and right-of-way widths of all proposed streets, allocated by construction phases, if applicable, and a depiction of how all proposed streets shall connect with previously dedicated streets or platted or planned streets within the vicinity of the Subdivision in accordance with Section 8.3.2 of these Rules regarding street connectivity; and

6.2.3.2 Location, size and proposed use of all proposed access easements; and

6.2.3.3 A statement indicating whether the Applicant shall seek County maintenance of the roads or approval of a homeowner's association for road maintenance or designation of roads as private roads; and

6.2.3.4 The number of feet of frontage of each Lot onto a Permitted Street, which shall generally be not less than 50 feet. An Applicant proposing Lot frontages of less than 50 feet must demonstrate that maintenance of the road and drainage ditches shall not be adversely affected by increased numbers of driveway cuts, culverts, mailboxes or other obstructions so that maintenance equipment has adequate room to maneuver, and must also generally demonstrate how the more narrow frontage is in the public interest. The final determination shall be the County's.

6.2.3.5 Proposed location of all depth gauges, as required under Article 12, at all road crossings where the 100-year frequency flow or lesser frequency storm event is anticipated to flow over the road surface, and any proposed gates or warning devices. Note:

Commissioners Court may require gates or warning devices at such locations.

6.2.4 Water, Wastewater and Utilities Information.

6.2.4.1 Designation of the entities supplying electric, phone and gas utilities to Lots; and

6.2.4.2 In schematic presentation, the location of all proposed public water lines, public sewer lines; utilities easements including water well sanitary easements, if applicable; water storage reservoirs; water or sewage treatment facilities, holding tanks, and pumping facilities; fire protection facilities; and any other infrastructure proposed to serve multiple lots; and

6.2.4.3 Designation of the water and sewer utility providers for the Subdivision, if any, and the source of the water intended to serve each Lot within the subdivided area (i.e. surface water from a specified stream or river, ground water from a specified aquifer, etc.); and

6.2.4.4 The author, date and title of the Water Availability Report submitted in support of the Application.

6.2.4.5 Certification that all Lots have been designed in compliance with the Rules of LaSalle County for On-Site Sewage Facilities, together with all planning and evaluation materials required to determine Lot sizing under the LaSalle County On-Site Sewage Rules and any request for a variance under the Rules of LaSalle County for On-Site Sewage Facilities.

6.2.5 Phasing.

6.2.5.1 For a subdivision which the Applicant proposes to construct in phases:

6.2.5.1.1 The boundaries of the respective phase areas;

6.2.5.1.2 The projected date of completion of construction of each phase.

6.3 Street Design. A proposed Preliminary Plan shall satisfy the requirements of Article VIII relating to design of streets and shall contain a written certification

from a Registered Professional Engineer that the location and dimensions of streets as set forth and laid out on the Preliminary Plan are in accordance with these Regulations.

- 6.4 Drainage. A proposed Preliminary Plan shall satisfy the requirements of Article XII relating to Drainage and shall contain a written certification from a Registered Professional Engineer stating that the location and approximate sizes of the drainage structure set forth in the Preliminary Plan are in accordance with the County's Drainage Design Criteria.
- 6.5 On-Site Sewage, Facilities (OSSF). A proposed Preliminary Plan shall satisfy the requirements of the rules of TCEQ standards, or when adopted, of LaSalle County for OSSF.
- 6.6 Approval of Preliminary Plan. Commissioners Court shall approve a Preliminary Plan if it satisfies each of the requirements set forth in this article and in all other provisions of these regulations.
- 6.7 Construction Activities. Approval of a Preliminary Plan does not authorize any construction or Development activities, except as permitted or for common infrastructure facilities, but merely authorizes the Applicant to proceed with the preparation of a Final Plat.
- 6.8 "NO CONVEYANCE OF LOTS". **Conveyance of lots depicted on a Preliminary Plan shall not be permitted until the final plat has been approved by the LaSalle Commissioners Courts Court, and the record plat filed with the County Clerk.** The Preliminary Plat shall bear an appropriate notation of this specific limitation upon conveyance.
- 6.9 Expiration of Approval. Approval of a Preliminary Plan shall expire and be of no further force and effect in the event a complete application for Final Plat of the Subdivision is not filed within twelve (12) months following the date of Commissioners Court approval of the Preliminary Plan. For Preliminary Plans on projects that are phased, or that will be developed sequentially, the approval of a Final Plat for a phase of the project shall extend the expiration date for the remaining portion of the original Preliminary Plan for a period of 12 months after the date of approval of the Final Plat. Approval of each subsequent Final Plat within 12 months of the date of approval of the preceding Final Plat shall extend the expiration date for the portion of the original Preliminary Plan for which no Final Plats have been approved for an additional 12 months from the date of approval of such Final Plat.
- 6.9.1 Each 12-month extension period for the expiration of the original Preliminary Plan runs from the date of the latest Final Plat approval.
- 6.9.2 Extension periods are not cumulative.

6.9.3 If a Final Plat is not filed and approved during the 12-month extension period, the original Preliminary Plan and any unapproved Final Plat applications or expired Final Plats lapse.

6.10 Extension of Approval. Upon written request and justification, the Commissioners Court may by order grant a six-month extension of approval of a preliminary plan at the sole discretion of the Commissioners Court, provided that such request and justification are submitted prior to the expiration of the initial approval of the preliminary plan. No more than two such extensions may be granted. If initial approval or extension expires prior to the applicant's submittal of a complete application for final plat approval, the applicant shall be required to submit a new application for preliminary plan approval with full payment of fees.

ARTICLE VII

7. FINAL PLAT.

- 7.1. Purpose. The purpose of the Final Plat is to create a plat document, with related construction plans (if necessary) and technical support suitable for final review and approval by the County, and for filing in the permanent records of LaSalle County. After approval of the Final Plat by Commissioners Court, the payment of all relevant fees, and the filing of the Final Plat with the County Clerk, the Applicant is possessed of a legal subdivision in LaSalle County. Development on these Lots is of course still subject to any relevant state and federal regulations, and contingent upon obtaining the appropriate County permits and/or approvals, such as for on-site sewage facilities.
- 7.2. Time Limit. Prior to the expiration of approval of the Preliminary Plan, the Applicant shall present a Final Plat meeting the requirements of these Regulations to Commissioner's Court for final approval, or the application shall be deemed to have expired.
- 7.3. Requirements. A proposed Final Plat shall comply with the conditions of approval of the Preliminary Plan, shall generally conform to the Preliminary Plan and shall contain, or be submitted with, the following:
 - 7.3.1. All revisions necessary to comply with any conditions of approval of the Preliminary Plan stipulated by Commissioner's Court; and
 - 7.3.2. Any construction plans, tests, or sureties required by Article VIII (Street Design and Construction), or by any section of the Appendix to these Rules, including but not limited to Design and Construction Specifications of LaSalle County.
 - 7.3.3. All items required in Sections 3.4, 3.6 and 3.9 above, including filing fees.
 - 7.3.4. General Information.
 - 7.3.4.1. Bearings and dimensions of the boundary of the Subdivision and all lots, parks, greenbelts, easements, and conservation areas. Dimensions shall be shown to the nearest one-hundredth of a foot (0.01') and bearings shall be shown to the nearest one second of angle (01"). The length of the radius and arc of all curves, with bearings and distances of all chords, shall be clearly indicated; and
 - 7.3.4.2. Description of monuments used to mark all boundary, lot and block corners, and all points of curvature and tangency on street right-of-way; and

7.3.4.3. Location of original survey line. The subdivision shall be located with respect to an original survey of which it is part; and

7.3.4.4. Lot and block numbers of each lot; and

7.3.4.5. Acreage of all lots, calculated to the nearest one-hundredth of an acre.

7.3.4.6. Each Subdivision, or unit thereof, shall have two (2) corners on the perimeter identified by coordinates that relate to the State Plane Coordinates shall be reported as NAD 1929 or NAD 1983, shall be South Central Zone, and shall be accurate to two (2) decimal places. Similarly, latitude and longitude shall be reported in degrees, minutes, and seconds, with seconds having accuracy to two (2) decimal places.

7.3.4 Flood Plain and Drainage Information.

7.3.4.1 For subdivisions containing 100-year flood plain, benchmarks and finished floor elevations of each lot in accordance with Federal Emergency Management Agency; and

7.3.4.2 For each subdivision or unit thereof, at least one monument containing latitude and longitude and 1988 NGVD datum coordinates shall be established and identified.

7.3.4.3 Any information required by Article XII (Drainage Design and Improvements).

7.3.5 Street and Right-of-Way Information.

7.3.5.1 Total length of all streets, to the nearest one-tenth mile, and a declaration as to whether the streets are to be private or public streets maintained by an approved property owners association, or if the subdivision streets, or any portion thereof are to be maintained by the County, the plat must be accompanied by a separate Order of the Commissioners Court identifying the specific streets, or portions thereof, to be maintained by the County; and

7.3.5.2 In the absence of a separate and specific Order of the Commissioners Court accepting streets, or portions thereof, for county maintenance, the Final Plat shall contain an express notation that the streets within the subdivision are not maintained by LaSalle County.

- 7.3.5.3 Total area of all rights of way to be dedicated to the public; and
- 7.3.5.4 Construction Plans for all street and drainage improvements within the subdivision and signage plans for all streets; and
- 7.3.5.5 A certification under the seal of a Professional Engineer that the construction plans and pavement designs are in compliance with these Regulations; and
- 7.3.5.6 The total estimated construction cost of all of the streets and drainage improvements proposed to be constructed within the subdivision.
- 7.3.5.7 Any other items required under Article X (Acceptance of Road Maintenance and Development Permits), and the items required in the Appendix (including but not limited to the section on Design and Construction Specifications of LaSalle County) regarding either County Maintained Streets and Property Association Maintained Streets, as applicable; and
- 7.3.5.8 The following statement shall appear prominently on the plat: **“In order to promote safe use of roadways and preserve the conditions of public roadways, no driveway constructed on any lot within this subdivision shall be permitted access onto a publicly dedicated roadway unless a Driveway Permit has been issued by the Precinct Commissioner of LaSalle County or his or her designated representative, or Texas Department of Transportation for driveways entering onto state roads, and the driveway shall be designed and constructed in accordance with the LaSalle County Road Standards or TxDOT standards, as applicable”**; and
- 7.3.5.9 If roads are to be private, then the following statement shall appear prominently on the plat: **“Owners of property within this Subdivision shall look solely to the Property Owners Association for future maintenance and repair of the roads and streets**

shown on this Subdivision Plat. The developer of this Subdivision has chosen to dedicate the roads in this Subdivision as private streets. LaSalle County is in no way responsible for the repair or maintenance of these streets. These private streets shall not become part of the County maintenance system unless the Property Owners Association petitions the LaSalle Commissioners Courts Court to accept the roads for public maintenance. Such a petition must demonstrate that the streets have been maintained to, or improved to, whatever is the LaSalle County standard for public streets, right-of-way, and drainage, at the time of the petition. The decision whether the streets are adequate and whether to accept the petition for public maintenance shall be at the sole discretion of the LaSalle Commissioners Courts Court.”; and

7.3.5.10 The minimum driveway culvert size for each Lot, which shall be not less than 18”.

7.3.6 Water, Wastewater and Utilities Information.

7.3.6.1 For each Lot not served by a Public Sewer System, the location of a viable percolation area or surface irrigation area for on-site sewage facilities; and

7.3.6.2 For each lot not served by a Public Water System, proposed well site(s), if any, and required sanitary easements for well head protection; and

7.3.6.3 The items required by Section XI (Water and Wastewater Systems); and

7.3.6.4 The following statement shall appear prominently on the Preliminary and Final Plat: “No structure in this subdivision shall be occupied until connected to a public water system or an individual water system. Prospective property owners are cautioned by LaSalle County to question the seller concerning ground water availability.”

7.3.6.5 The following statement shall appear prominently on the Final Plat: “No structure in this subdivision shall be occupied until connected to a public sewer system or to an on-site wastewater system that has been approved and permitted by the LaSalle County Compliance Inspector.”

7.3.7 Other Plat Notes and Certifications.

7.3.7.1 The following statement shall appear prominently on the plat: **“No structure or development within the subdivision may begin until Final approval of the plat by LaSalle Commissioners Courts Court and recording of the approved plat by the County Clerk.”**

7.4 Agreement to Comply. By submitting a Final Plat, the Owner acknowledges that he or she is aware of and will comply with all Orders of LaSalle County regarding construction and development in effect at the time the Subdivision application was deemed complete, including, but not limited to the following:

7.4.1 Order regulating the access of private construction vehicles from construction sites onto publicly maintained roadways, requiring the Owner to take certain steps to limit damages to public roadways and drainage facilities and to clean all mud or other debris carried onto the public roadways by such construction vehicles, and imposing fines for non-compliance; and

7.4.2 Order requiring all construction within County right-of-way including driveways, drainage improvements, and the cutting of any existing roads for installation of utilities to be inspected prior to completion, prohibiting cutting of certain roadways within **two years** of construction thereof, and imposing fines for non-compliance; and

7.4.3 9-1-1 Addressing: No permanent utility services shall be connected to any habitable structure on a Lot until a 9-1-1 address is assigned for the Lot. If the Applicant is unable to obtain addresses for each Lot in the subdivision at the time of platting, due to Lot sizing or other reasons, it is then the responsibility of the Lot owner to obtain an address prior to the start of construction. 9-1-1 addresses should be visible from the street.

ARTICLE VIII

8. STREET DESIGN AND CONSTRUCTION.

- 8.1 Permitted Streets. All streets, whether maintained by the County or a property owners association shall be constructed in accordance with these Regulations (including the Appendix attached hereto) and shall be classified as one of the following types of streets (referred to collectively as “Permitted Streets”):
- 8.1.1 Publicly dedicated street, paved and to be maintained by the County.
 - 8.1.2 Privately maintained paved street.
 - 8.1.3 Privately maintained unpaved street.
 - 8.1.4 Unpaved public streets are not permitted.
- 8.2 Dedication to Public. Any dedication to the public shall be accomplished either by deed conveying a fee simple interest or by a dedication on the plat conveying a perpetual right-of-way easement in the property to the county for public use. No dedication shall be effective until the Final Plat is recorded. However, **County acceptance for maintenance of street and drainage improvements within dedicated right-of-way requires separate action, evidenced by formal Order of the LaSalle Commissioners Courts Court.**
- 8.3 County Approval. Where Applicants meet all the requirements established by these Rules, mere approval of the Final Plat does not signify acceptance of any dedication of streets for County maintenance. Nothing in these rules shall be construed to require the County to accept streets for maintenance. The County may impose a maintenance bond and waiting period before accepting roads for maintenance.
- 8.4 Design of Public Improvements. All improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of utilities, drainage and streets, and to permit continuity of improvements to adjacent properties.
- 8.5 Minimum Right-of-Way. Streets shall include a minimum, dedicated right-of-way of not less than 60 feet. LaSalle County, at its discretion, may require more right-of-way for streets that will serve as collectors or arterials within subdivisions with numerous Lots.
- 8.6 Minimum Street Width. Streets shall have a minimum of two 10-foot travel lanes, with three-foot shoulders on each side, for a total carriage-way of 26 feet. LaSalle County, at its discretion, may require a greater lane width, or more lanes, for

streets that will serve as collectors or arterials within subdivisions with numerous Lots.

8.7 Connectivity. To provide an interconnected network of streets throughout the county, subdivision planning and design shall provide for reasonable connection of streets to adjoining subdivisions or undeveloped tracts.

8.7.1 If LaSalle County has adopted a road or transportation plan for the County, then any street within a tract proposed for subdivision shall be aligned in general conformance with the plan, and shall have design specifications, right of way, and pavement width consistent with the plan.

8.7.2 Required connection to existing streets.

8.7.2.1 For purposes of this article, a street stub is an improved street extended to a dead-end at the boundary of an adjoining unplatted tract or undeveloped tract. If the length of a street stub is no greater than the depth of the two adjoining Lots and those Lots have access to an intersecting street, a street stub is not required to include a cul-de-sac or other provision for vehicle turnaround. A street stub that is part of a Subdivision with public streets shall be clearly marked with a "No Outlet" sign placed by the developer in accordance with the County's Specifications.

8.7.2.2 Where existing street stubs adjoin the boundary of a proposed Subdivision, any public streets in that proposed Subdivision streets shall connect to the existing street stubs.

8.7.2.3 Block lengths and intervals between streets shall be based on good engineering and planning design principles, appropriate to topography, Lot size and spacing, and the number of Lots on the street and in the subdivision.

8.8 Street Boundaries. The front boundary lines of all Lots shall be contiguous with the boundary of the adjoining public street right-of-way.

8.9 Privately Maintained Streets. Under certain conditions, LaSalle County allows Subdivision streets to be constructed as private streets, at the discretion of the Applicant. However, to protect the public health and welfare, and to ensure emergency access, all private streets shall be designed and constructed in accordance with the standards specified for public streets in the LaSalle County Road Design and Construction Specifications, included in the Appendix to these Rules, except that certain private streets, as discussed below, are not required to have a paved surface. Private streets shall be permitted when the Applicant meets the following conditions:

- 8.9.1 The following note shall be conspicuously displayed on the Plat (per 7.3.5.8):

“Owners of property within this Subdivision shall look solely to the Property Owners Association for future maintenance and repair of the roads and streets shown on this Subdivision Plat. The developer of this Subdivision has chosen to dedicate the roads in this Subdivision as private streets. LaSalle County is in no way responsible for the repair or maintenance of these streets. These private streets shall not become part of the County maintenance system unless the Property Owners Association at a future date petitions the LaSalle Commissioners Courts Court to accept these roads for public maintenance. Such a petition must demonstrate that the streets have been maintained to, or improved to, whatever is the LaSalle County standard for public streets, right-of-way, and drainage, at the time of the petition. The decision whether the streets are adequate and whether to accept them for public maintenance shall be at the sole discretion of the LaSalle Commissioners Courts Court.”

- 8.9.2 Restrictive covenants establishing a Property Owners Association, with the power to lien against real property for the payment of dues and/or road maintenance fees, shall be placed on record concurrently with the recording of the Final Plat.

- 8.9.3 Privately Maintained Unpaved Streets Allowed For Large Lots. As an incentive to preserve the historic rural character of portions of LaSalle County, a Subdivision in which the minimum Lot size is five acres or larger, and the Average Lot size is 10 acres or larger, may construct privately maintained unpaved streets. Unpaved private streets shall be designed and constructed in accordance with the LaSalle County Road Design and Construction Specifications included in the Appendix to these Rules, except for paving and related specifications. Unpaved streets shall be permitted within a subdivision only if each of the following criteria are satisfied:

8.9.3.1 The plat note for privately maintained streets is displayed on the Plat, as described in 8.9.1 above.

8.9.3.2 Restrictive covenants shall be imposed on all Lots with frontage or access onto the unpaved street. This covenant shall prohibit any

future resubdivision of any tract into Lots smaller than five acres unless the street is first improved to the County's standards then in effect for paved streets. In addition, either the existing property owners association or LaSalle County must commit to accept the paved street for future maintenance.

- 8.10 Permit Required for Construction in Right-of-Way. No driveway or utility construction, or any other encroachment into public right-of-way or easements shall be allowed without first obtaining a permit from the Commissioners Court or its designee.
- 8.11 Cul-de-sacs. Cul-de-sacs shall provide a paved turnaround having a slope not greater than six percent (6%) and a minimum radius of 40' in residential areas.
- 8.12 Fiscal Surety. The Final Plat shall be accompanied by the following:
- 8.12.1 In the event that a Subdivider desires to file a Final Plat prior to the completion of the construction of all streets within the subdivision, the Subdivider shall provide LaSalle County with an appropriate construction bond or financial security to assure the county that all roads and streets within the subdivision shall be constructed in accordance with these regulations.
- 8.12.2 Financial security must be arranged in one of the following ways:
- A Construction Bond filed by the Subdivider payable to LaSalle County in the amount of 100% of the cost of construction. The bond must be a surety bond provided by a surety company licensed to conduct business within the State of Texas; or
 - The Subdivider may escrow funds to include certificates of deposit or other financial instruments as may be deemed satisfactory by the Commissioners Court and in the amount of the total cost of construction.
- 8.13 Design Criteria and Construction Standards for Streets. Streets and associated drainage shall conform to the Design and Construction Specifications of LaSalle County, which shall be updated from time to time at the discretion of the Commissioners Court. These specifications are included in Appendix A of this document.

ARTICLE IX

9. LOT AND BLOCK STANDARDS.

- 9.1 Blocks. Reserved. (However, see Section 8.7, Street Continuity, as it can affect street and block layout.)
- 9.2 OSSF and Floodplain Rules. The area of each Lot must be sufficient to comply with the LaSalle County Rules for On Site Sewage Facilities as applicable, and also with the LaSalle County Floodplain Rules.
- 9.3 Minimum Lot Sizes in General. To protect the public health and to comply with the responsibilities delegated to the County by the state for the regulation of on-site wastewater facilities, the County requires a minimum Lot size for Lots that rely on wells or on-site sewage facilities (commonly referred to as septic tanks). Provided there is adequate buildable area on the Lot, and the topography and soils are typical of LaSalle County, and the Lot otherwise complies with 9.2 above, minimum Lot sizes are:
- 9.3.1 With well and on-site sewage facility – two acres;
- 9.3.2 With state-permitted public water supply and on-site sewage facility – 1.5 acres;
- 9.3.3 With state-permitted public water supply and a state-permitted public sewer system, no minimum other than compliance with the other requirements specified in these Rules, including 50-foot Lot fronts required for Lots on County streets and compliance with 9.2 above.
- 9.3.4 If a Plat note is included requiring that each on-site sewage system in the Subdivision be designed by a licensed professional engineer, or a registered sanitarian, then Lot sizes for 9.3.1 and 9.3.2 may be halved.
- 9.4 Flag Lots. Flag lots shall generally not be permitted, except if approved by Commissioner’s Court as consistent with the intent and spirit of these regulations. The Precinct Commissioner shall advise Commissioners Court if a proposed Lot constitutes a “Flag Lot”, and Commissioner’s Court shall, in reviewing all the circumstances, make the final determination. In no event shall any private Lot extend into a dedicated public roadway
- 9.5 Slope. Each residential Lot should include a practical buildable area having at least 3,000 square feet, exclusive of the area required for on-site sewage facilities, and a slope of less than 15%.

ARTICLE X

10. ACCEPTANCE OF ROAD MAINTENANCE AND DEVELOPMENT PERMITS.

- 10.1 Owner's Maintenance Responsibility. The Owner shall remain responsible for all maintenance and repair of streets within a subdivision until Commissioners Court, by formal written Minute Order, accepts the obligation to maintain and repair such roads. Commissioners Court decision to approve a Final Plat or dedication of the right-of-way for a street shall not be deemed to constitute acceptance of the streets for maintenance.
- 10.2 County Acceptance of Maintenance. The county shall not, as a general rule, accept subdivision streets for county maintenance. Where a developer seeks to have the County accept a road or street for maintenance, such consideration will be given **only** when the following conditions have been satisfied:
- 10.2.1 The street has been constructed as a Public Permitted Street in accordance with these Regulations, the Final Plat for the Road or street has been recorded and the associated right-of-way has been dedicated to the public pursuant to these Regulations; and
- 10.2.2 The Owner has submitted a written request to Commissioners Court. If the Owner is no longer available, i.e. has ceased to transact any business, or in the case of an individual, has died, any person owning property with frontage or access onto the street may submit the written request; and
- 10.2.3 The Precinct Commissioner has performed and approved all required inspections at the completion of each phase of construction of the street, including plasticity index, sub-base and base, tests for compacted density, depth of base and distribution of asphalt (it is the responsibility of the developer to coordinate all inspections and laboratory tests with the Precinct Commissioner and not to proceed with construction until proper inspections and tests have been obtained, as required by the Precinct Commissioner.) Any laboratory tests and test holes shall be at the expense of the developer. In no event will any base be placed on the street until the subgrade has been approved in writing by the Precinct Commissioner; and
- 10.2.4 The Precinct Commissioner has inspected the street no earlier than thirty (30) days prior to presentation to the Commissioners Court for the optional acceptance of the maintenance obligation and has submitted to Commissioners Court an Inspection Report stating that:
- 10.2.4.1 The street, in its current condition and with no repairs, upgrades or improvements, is in compliance with the

Regulations and all other guidelines in effect at the time of the inspection; and

10.2.4.2 The requirements of Section 10.4 below, regarding construction of drainage structures and driveway drain pipes, have been satisfied; and

10.2.4.3 The Precinct Commissioner recommends acceptance of the street by Commissioners Court.

10.2.5 One of the following has occurred:

10.2.5.1 The Owner has posted with the County cash, bond or a letter of credit in a form approved by Commissioners Court (a "Maintenance Bond") to secure the proper construction and maintenance of the Roads prior to County acceptance thereof in an amount equal to 20% of the construction costs of the streets for a term of two (2) years following acceptance by the county.

10.2.5.2 Before release of the Maintenance Bond or Letter of Credit, the Precinct Commissioner shall again inspect the roads or streets, and the Owner shall remedy all deficiencies prior to release of the Maintenance Bond or Letter of Credit. If the deficiencies are not promptly remedied, the county shall make the repairs and draw on the Maintenance Bond or Letter of Credit for payment. Note: A Maintenance Bond must be posted regardless of the date the streets or roads are accepted by the county, or all streets or roads completed prior to the recording of the Final Plat.

10.2.6 County Acceptance of Streets Constructed as Private Streets. The Commissioners Court shall not accept for County maintenance any street constructed as a private street unless the street and associated drainage improvements are upgraded as necessary to comply with current standards of these Regulations.

10.2.6.1 Right-of-way. If the street right of way is not dedicated to public use by a plat of record or deed instrument(s) satisfactory to the Commissioners Court, the Commissioners Court may require that the owner(s) petitioning for County acceptance execute a right of way deed(s) to the County. Petitioners should coordinate with the Precinct Commissioner to ensure that right of way is sufficient for any modification,

reconstruction or realignment of street or drainage improvements required for the improvements to conform to these Regulations.

10.2.6.2 Design, Testing and Inspections. Petitioners should coordinate with the Precinct Commissioner regarding the nature and extent of reconstruction, repair, upgrade, modification or realignment of existing street and drainage improvements necessary to bring them into conformance with these Regulations. The Commissioners Court may require such testing and inspection of existing improvements as the Court deems necessary, and may require that construction plans for necessary modifications be prepared by a licensed engineer at the petitioners' expense.

10.2.6.3 Procedure. The procedures and requirements of Sections 10.2.2 through 10.2.5 shall apply, provided that in case of conflicting requirements the requirements of this Section 10.2.6 shall govern.

10.3 Installation of Utility Lines. All utility lines planned to be constructed under paved street shall be installed before the street is paved. All utility lines installed under an existing paved street shall be bored to a point at least four (4) feet beyond the pavement and must be approved in advance by the Precinct Commissioner, unless otherwise approved by Commissioners Court.

10.4 Construction of Roads Prior to Final Plat. Upon approval of a Preliminary Plan, an Owner may apply to the Commissioners Court to commence construction of roads, streets, utilities and drainage structures within the right-of-way. This application will be granted upon the Commissioners Court's review and approval of the Construction Plans, and other materials required in Section 6.4 or 6.5, as applicable. An Owner wishing to construct roads, streets, or other improvements prior to the recording of a Record Plat, shall be required to post maintenance Bond or Letter of Credit upon recording of the Final Plat satisfying the requirements of Section 10.2.5.1 above.

ARTICLE XI

11. WATER AND WASTEWATER SYSTEMS.

11.1 Water

11.1.1 Design and Construction. Public water supply systems shall be designed and constructed in accordance with the rules of the TCEQ.

11.2 Wastewater.

11.2.1 Design and Construction. Wastewater collection systems shall be designed and constructed in accordance with the rules of the TCEQ.

11.2.2 Compliance with On-site Sewage Rules. All Lots must be designed in compliance with the Rules of LaSalle County for On-Site Sewage Facilities.

11.3 Water Availability: General Requirements for all Lots.

11.3.1 Applicants shall state how water is to be provided to each of the Lots in the proposed Subdivision.

11.3.2 Applicants shall provide a study by a registered professional in accordance with the guidelines established by the Texas Commission on Environmental Quality (30 TAC, Chapter 291), in order to demonstrate that adequate water exists to serve the needs of the Subdivision at projected build-out.

11.3.3 Applicants shall submit a copy of the study prepared under 11.3.2 to the local water district for review, and the Commissioners Court, at its discretion, may rely on the water district to determine whether an Applicant is in compliance with Water Availability requirements.

11.3.4 Applicants shall comply with both these general requirements and with any relevant specific requirements enumerated below in this Article.

11.3.5 Water Availability data shall be submitted to the Commissioners Court along with submission of the Preliminary Plan. LaSalle County shall have the Water Availability data review by a qualified expert on behalf of LaSalle County. The Commissioners Court may rely on the local water district to review the submission, or on other qualified persons or organizations, at its discretion.

11.3.6 Exceptions to Water Availability Regulations.

11.3.7 Subdivision of property where platting is not required by the LaSalle County Subdivision Rules;

11.3.8 Subdivision of property in which all Lots are 25 acres or greater.

11.3.9 The LaSalle Commissioners Courts Court makes no representation or warranty; either express or implied that subdivisions that comply with these water availability regulations will meet the current or future water needs of purchasers of property within the subdivision.

11.4 Requirements for Subdivisions to Be Served By Private Water Wells. The Preliminary Plan submittal to the Commissioners Court for a proposed subdivision whose water supply will be private water wells shall include Water Availability data derived from a minimum of two wells (one test well and one monitor well). There shall be one (1) set of Test-Monitor wells for each 100 acres and the local groundwater district shall consult on the location of these wells. The use of existing wells is permitted if the existing well complies with these regulations and the local groundwater district accepts the well(s) to be suitable for the purpose of the proposed test.

11.4.1 The following Water Availability data is required:

11.4.1.1 Map of the proposed subdivision prepared by a qualified expert identifying:

- a. Geological formations;
- b. Location of test and monitor wells by longitude and latitude;
- c. Available data on wells within 1,000 feet of the boundaries of the proposed subdivision (including well depth, depth to water yield and estimated yield). Subject wells may be identified in the files of the Texas Water Development Board or TCEQ or the records of the local water district of otherwise known to the qualified expert.

11.4.1.2 The static water level to the nearest 0.1 foot, equated to the mean sea level elevation.

11.4.1.3 Data derived from an aquifer pump test utilizing proven methods recommended by TWDB or TCEQ suitable for the geologic formation identified by the qualified expert. The pump test shall be supervised by a qualified expert and shall be performed on a new well after the well has been properly completed. The duration of the pump test shall be 24

consecutive hours or until the water level has stabilized (less than 0.1 foot fluctuation) in the test well for a period exceeding two hours.

11.4.1.4 Statement by a qualified expert, based on the pump test:

- a. Estimated yield of wells proposed for the subdivision;
- b. Determination of transmissivity of the water bearing formation or strata from which the ground water will be withdrawn;
- c. A report on the water quality.

11.4.1.5 Certification by a registered professional engineer that an adequate supply of water of sufficient quantity and quality exists to supply the subdivision at full build-out based on number of connections, using the formula for minimum gallons per year to be supplied to the subdivision:

$$\text{Minimum gallons per year} = \text{Number of connections} \times 3.5 \times 100 \times 365 \text{ days.}$$

11.4.2 The following statement shall appear on the final plat for the approved subdivision: **“This subdivision will be served by individual, privately-owned groundwater wells. Information on the available supply of groundwater and its quality is available to prospective purchasers of Lots in this subdivision in the office of the County Clerk of LaSalle County, Texas.”**

11.4.3 For any existing or proposed private water well which is subject to permitting or pumping restrictions by a governmental subdivision, the Applicant shall submit proof that pumping of groundwater at the specified rate complies with applicable regulations and/or permits.

11.5 Requirements for Subdivisions to Be Served By a Proposed New Public Water Supply System.

11.5.1 The Preliminary Plan submittal to the Commissioners Court for a proposed subdivision whose water supply will be a proposed new Public Water Supply System relying wholly or partially on groundwater or surface water shall include Water Availability data on those respective sources.

11.6 For Ground Water sources, this water availability data shall be derived from a minimum of two wells (one test well and one monitor well). There shall be one (1) set of Test Monitor wells for each 100 acres and the local groundwater district

shall consult on the location of these wells. The use of existing wells is permitted if the existing well complies with these Regulations and local groundwater district accepts the well(s) to be suitable for the purpose of the proposed test.

Groundwater Availability Data shall include:

- 11.6.1.1 Map of the proposed subdivision prepared by a qualified expert identifying:
 - a. Geological formations;
 - b. Location of test and monitor wells by longitude and latitude;
 - c. Available data on wells within 1,000 feet of the boundaries of the proposed subdivision (including well depth, depth to water yield and estimated yield). Subject wells may be identified in the files of the Texas Water Development Board or TCEQ or the records of the local water district or otherwise known to the qualified expert.
- 11.6.1.2. The static water level to the nearest 0.1-foot, equated to the mean sea level elevation.
- 11.6.1.3. Data derived from an aquifer pump test utilizing proven methods recommended by TWDB or TCEQ suitable for the geologic formation identified by the qualified expert. The pump test shall be supervised by a qualified expert and shall be performed on a new well after the well has been properly completed. The duration of the pump test shall be 24 consecutive hours or until the water level has stabilized (less than 0.1 foot fluctuation) in the test well for a period exceeding two hours.
- 11.6.1.4.. Statement by a qualified expert, based on the pump test.
 - a. Estimated yield of wells proposed for the subdivision;
 - b. Determination of transmissivity of the water-bearing formation or strata from which groundwater will be withdrawn;
 - c. A report on the water quality.

11.6.2. For Surface Water sources, water availability data shall include:

- 11.6.2.1 Identification of the source(s) of surface water (name of stream or impoundment) and proof that withdrawal or diversion of surface water complies with state and federal laws.
- 11.6.2.2 Identification of any wholesale water provider to the system, the date of wholesale water supply contract(s) and the

maximum quantity of water per year that is committed by the wholesale supplier to the public water supply system.

11.6.2.3 A description of interconnection(s) with other public water supply system(s) and the terms under which water will be provided by either system to the other.

11.6.2.4 For proposed new public water supply system, certification by a qualified expert that an adequate supply of the water of sufficient quantity and quality to supply the subdivision at full build-out, based on number of connections, in accordance with TCEQ utility regulations at 30 TAC, Chapter 291.

11.6.3. The following statement shall appear on the final plat for an approved subdivision: **“This subdivision will be served by [Name of New Public Water Supply System, and mailing address]. Information on the [Name of New Public Water Supply System] is available to prospective purchasers of lots in this subdivision in the office of the County Clerk of LaSalle County, Texas.”**

11.6.4. Requirements for Subdivisions to Be Served By an Existing Public Water Supply System. The Preliminary Plan submittal to the Commissioners Court for a proposed subdivision whose water supply will be an existing Public Water Supply System relying wholly or partially on groundwater or surface water shall include certification in writing by the president or general manager of the public water supply system of the following:

11.7.1. General System Information.

11.7.1.1. Name, address, phone number, authorized agent and TCEQ facility number.

11.7.1.2. Map of the service area of the Public Water Supply System, showing the location of the proposed subdivision.

11.7.1.3. Certification that an adequate supply of water of sufficient quantity and quality exists to supply the subdivision at full build-out, based on number of connections, in accordance with TCEQ utility regulations at 30 TAC, Chapter 291.

11.7.2. The following statement shall appear on the final plat for an approved subdivision: ***“This subdivision will be served by [Name and address of Public Water Supply System]. Information on the [Name of Public Water Supply System] is available to prospective purchasers of lots in this subdivision in the office of the County Clerk of LaSalle County, Texas and be stated in deed restrictions.”***

11.7.3. Applicant shall comply with state laws that require adequate water – in both quantity and quality – to serve the proposed development for human consumption. The burden is on the applicant to demonstrate adequate water availability.

ARTICLE XII

12. DRAINAGE DESIGN AND IMPROVEMENTS.

- 12.1 Stormwater Runoff into County Drainage Facilities. Stormwater runoff from any Development may not be released into any County drainage ditch, swale, easement, culvert or other facility or any such drainage facility associated with an existing road, whether public or private, at a rate greater than when the property was in its undeveloped condition. The Commissioners Court may require the submission of additional materials at the time of the Preliminary or Final Plat application to assure the proposed subdivision will be in compliance with this Section.
- 12.1.1 Incentive for Lots Larger than Five Acres. If all Lots in a subdivision are larger than five acres and restricted by plat note limiting future development to one single family residence per Lot and prohibiting TCEQ Regulated Development (as defined in Article II), then such subdivision shall be deemed to be in compliance with this Section 12.1 and no additional materials need to be submitted to demonstrate compliance to the Precinct Commissioner.
- 12.2 Conveyance of 100-year Storm Frequency Flows. In addition 12.1 above, the drainage system shall be designed to convey all channeled or concentrated flows from a 100-year frequency storm within defined right-of-way or drainage easements, which shall not be narrower than 20 feet in width.
- 12.3 Completion of Drainage System Prior to Acceptance of Street Maintenance. No streets will be accepted for maintenance by the County until all required drainage structures have been installed. This includes drain pipes for any driveways that have already been constructed at the time the street is presented to the County for acceptance into the public road system.
- 12.4 Maximum Headwater Elevation for Drainage Crossings. All streets, culverts underneath streets, and bridges shall be designed so that storm water runoff shall not produce a headwater elevation at the roadway greater than six inches above the roadway crown elevation, based on the storm event frequency described in 12.4.2 (below).
- 12.4.1 A permanent depth gauge shall be placed at all road crossings where the 100-year frequency flow or lesser frequency is anticipated to flow over the street surface. Commissioners Court may require installation of gates or warning devices at all or some of such locations.
- 12.4.2 Drainage facilities shall be designed to convey the 10-year storm event with not more than six inches of water over the street in the 25-year storm event.

12.4.3 This Section does not apply to driveway culverts.

12.4.4 Design for Overflow and Impounding. All streets shall be designed and constructed to withstand the impact of water being impounded adjacent to and flowing over the street as described in 12.4.2.

12.5 Drainage Design Methodology. The methodologies shall be based upon commonly accepted engineering practices used within the area. By sealing the Final Plat Application, Applicant's design engineer warrants that he or she has made every good faith effort to comply with the letter and spirit of these Rules. LaSalle County reserves the right to review computations by the Applicants engineer. Upon request, Applicant or his engineer shall submit data to support all drainage designs to the Commissioners Court or his/her designee.

12.5.1 All computations of flood plains, culverts, channels, etc., shall be based on fully developed upstream conditions; and

12.5.2 A drainage area of 64 acres or greater is required within a contributing watershed to create a "flood plain." For areas of flow with less than 64 acres of contributing area, no flood plain shall be defined; however, any concentrated flow necessitates the dedication of a drainage easement.

12.6 Easements.

12.6.1 All flood plain and concentrated flows for the 100-year storm frequency shall be contained within a dedicated drainage easement or right-of-way; and

12.6.2 Development will be allowed within the flood plain or within a drainage easement only on a case-by-case basis. Any structure authorized to be constructed within the flood plain must be above the base flood elevation. No development whatsoever will be permitted in the floodway.

ARTICLE XIII

13. REVISION AND CANCELLATION.

- 13.1 Revision. The Owner of an existing Lot or Lots in a platted subdivision may submit an application to revise the protection of the existing plat affecting such Lots, unless prohibited by restrictive covenants or plat note files pursuant to these Regulations, by submitting the following to the Office of the County Judge:
- 13.3.1 Eight (8) copies of the proposed revised plat, conforming in all respects to the requirements of these Regulations; or, if submitted by a private property owner who is not a developer in the subdivision, other materials acceptable to the Commissioners Court clearly setting for the desired amendment; and
 - 13.3.2 A statement giving the reason for the proposed revision; and
 - 13.3.3 A filing fee as established in Appendix D.
- 13.2 Review Period. Commissioners Court shall have the review period established in Section 3.7 and 3.8 above.
- 13.3 Public Notice. After the date the Commissioner posts the resubdivision for consideration by Commissioners Court, but before the application is considered by the Court, the applicant shall file proof that the Owner, at its expense, has delivered or published all notices required by Local Government Code, Section 232.009, including:
- 13.3.1 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 Commissioners Court will meet to consider the application and hear protests, if any. As required by Local Government Code, Section 232.009, the notice shall be published three (3) times during the period beginning on the 30th day and ending on the 7th day prior to the date of the Commissioners Court hearing; and
 - 13.3.2 Delivery of notice of the application to all owners within the original subdivision by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.
- 13.4 Criteria for Approval. Commissioners Court may approve an application to revise a subdivision upon a finding that:

13.4.1 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

13.4.2 The plat as revised conforms to the requirements of the regulations.

13.5 Cancellation. An application to cancel an existing plat shall be submitted and considered in accordance with Article 232.008 of the Texas Local Government code, which establishes, among other things:

13.5.1 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; and

13.5.2 Notice of the application must be published in English in the county for at least three (3) weeks before action is taken on the application; and

13.5.3 Upon application of the Owners of 75 percent (75%) of the property included in the subdivision, phase or identifiable part, Commissioners Court shall authorize the cancellation upon notice and hearing as required under Local Government Code, Article 232.008, provided that if the Owners of at least 10 percent (10%) of the property affected file written objections with Commissioners Court, the grant of an order of cancellation is at the discretion go Commissioners Court; and

13.5.4 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 summaries set forth above the actual terms of Article 232.008 of the Local Government Code, as amended, the terms of the Local Government Code shall control in all respects.

ARTICLE XIV

14. VARIANCES.

- 14.1 Criteria for Variance. These Regulations are intended to cover most circumstances arising from the subdivision and development of land in LaSalle County. Of course, no set of rules and regulations can foresee every issue that will arise. Therefore, the LaSalle Commissioners Courts Court shall have the authority to grant variances from these Regulations when the public interest or the requirements of fairness and justice demand it. In considering whether to relax the strict requirements of these Regulations, or to grant a variance for any reason, the Court shall consider the following factors:
- 14.1.1 The actual situation of the property in question in relation to neighboring or similar properties, such that no special privilege not enjoyed by other similarly situated properties may be granted; and
 - 14.1.2 Whether strict enforcement of the Regulations would deny the Applicant the privileges or safety of similarly situated property with similarly timed development; and
 - 14.1.3 Whether the granting of the variance would be detrimental to the public health, safety or welfare, and whether it would be injurious to other property, or prevent the orderly and safe subdivision of the land in the area in accordance with these Regulations; and
 - 14.1.4 Whether there are special circumstances or conditions involved such that strict application of the provisions of these Regulations would deprive the Applicant of the reasonable use of his or her land, so that failure to approve the variance would result in undue hardship to the Applicant. But financial hardship, standing alone, shall not be deemed to constitute undue hardship.
- 14.2 Application for Variances. Any person who wishes to receive a variance should apply to Commissioners Court in writing. The request for variance should include a list of all variances requested, along with a written justification for each. The request shall be submitted with payment of a non-refundable fee. That fee shall be established in Appendix D.
- 14.3 Discretion to Grant Variances. The decision of the Court to grant or deny a variance is at its complete and sole discretion

ARTICLE XV

15. ENFORCEMENT AND PENALTIES.

- 15.1 Category of Offense. A person commits an offense if the person knowingly or intentionally violates a requirement of these Regulations, including the Road Design and Construction Specifications incorporated into these Regulations, the Rules of LaSalle County for On-site Sewage Facilities, and any appendices attached to these Regulations. An offense under this provision is a Class B misdemeanor punishable by fine or imprisonment, or both.
- 15.2 Enforcement Actions. At the request of Commissioners Court, the County Attorney or other prosecuting attorney for County may file an action in a Court of competent jurisdiction to:
- 15.2.1 Enjoin the violation of threatened violation of a requirement established by or adopted by Commissioners Court under these regulation; or
- 15.2.2 Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted by Commissioners Court under these Regulations.
- 15.3 Enforcement of Plat Notes. The enforcement of plat notes or restrictions is generally the responsibility of the developer and other persons holding a property interest, whether in fee simple, or by easement, in the subdivision. However, Plat Notes shall reflect that the County may enforce any plat note imposed pursuant to the Rules of LaSalle County for On-Site Sewage Facilities or otherwise based on these regulations and related to the general health, safety and welfare of the public, including but not limited to any plat note limiting development to single family residences or prohibiting further resubdivision of the tract in order to qualify for an incentive under these regulations, any plat note imposed in conjunction with street design, or any plat note affecting county right-of-way, drainage, or dedications to the County. Moreover, Commissioners Court shall have the right and authority through appropriate legal procedures to prohibit the construction, connection of utilities, or issuing of permits if the plat notes or restrictions have been violated.
- 15.4 Severability. In the event any article, appendix, section, paragraph, sentence, clause or phrase of these Regulations shall be declared unconstitutional or invalid by the valid judgment unconstitutionality or invalidity shall not affect any remaining phrases, clauses, sentences, paragraphs, section, appendices or articles of these Regulations. It is the express intent of the Commissioners Court that the sections, paragraphs, sentences, clauses or phrases of these Regulations be severable.

Appendix A: Design and Construction Specifications
Tab 4

APPENDIX A:

DESIGN AND CONSTRUCTION SPECIFICATIONS OF LASALLE COUNTY

SECTION 1

DATE OF EFFECT AND APPLICABILITY

- 1.1 These standards and specifications, having been adopted by the LaSalle Commissioners Courts Court by an Order of the Court on the 8th day of April, 2013, are declared to be in and of effect for all subdivision road and drainage work commenced on or after this date. These standards and specifications replace and supercede any and all guidelines, standards or specifications heretofore in effect in LaSalle County, and shall be the sole basis of determining standards and specifications for Subdivisions commenced after this date, unless a specific variance is granted by Order of the LaSalle Commissioners Courts Court, or these standards and specifications are amended or replaced by the Court.

SECTION 2

GENERAL GUIDELINES

2.1 General Engineering Standards:

In order to ensure the safe and proper construction design of new streets, driveways, storm sewer, and drainage ways; construction drawings and specifications, prepared and certified by a Registered Professional Engineer licensed to practice in the State of Texas, shall be submitted for review and approval prior to land clearing and construction. Construction Plans should be submitted along with the Final Plat. A copy of the proposed plat shall be included in the construction plans.

All roads shall consist of drainage facilities, sub grade , compacted flexible base material, and surface treatment of what is generally known as a "two course chip seal," unless otherwise specified by the County.

Drainage facilities shall be designed in accordance with the Texas Department of Transportation's, 'Hydraulic Design Manual', dated October 01, 2011, or the most current published edition. Culvert and bridge facilities shall not increase the upstream water surface more than one foot, nor damage upstream and downstream property owners. All roads and streets shall be designed and constructed to withstand the impact of storm water being impounded adjacent to and flowing over the road or street. Streets that cross areas of 100-year floodplain shall not increase the water surface beyond the guidelines and requirements of the Federal Emergency Management Agency and/or the governing local Floodplain Administrator's guidelines and requirements, nor damage upstream and downstream property owners.

2.2 General Review Requirements:

The Applicant must submit the following for review and approval:

- 2.2.1 A set of construction drawings for streets, site development, drainage, utilities, and roadway signage plan;

- 2.2.2 An engineer's drainage report providing the technical data related to drainage issues required for the review of the proposed project. The report must be signed and sealed by the same engineer who prepared the construction plans.
- 2.2.3 A copy of a geotechnical report, signed and sealed by a registered professional engineer, establishing the engineer's recommended pavement section design based on American Association of State Highway and Transportation Officials (AASHTO) pavement section thickness design for a proposed 20-year life;
- 2.2.4 Temporary and permanent erosion and sedimentation control methods for all areas disturbed by the construction; and
- 2.2.5 An engineer's construction cost estimate signed and sealed by the same engineer who prepared the construction plans.

In addition, an engineer's summary letter shall be submitted outlining the nature of the project and any requests for the use of design standards other than those outlined herein.

2.3 Engineer's Construction Plan Requirements:

- 2.3.1 Cover Sheet. Show the following:
 - (a) Subdivision Name
 - (b) Legal description of property.
 - (c) Name, address, and phone number of Owner, surveyor and engineering firm that prepared the plans.
 - (d) North arrow.
 - (e) Name of watershed.
 - (f) Project location map, clearly identifying the precise construction location.
 - (g) Tabulation sheet index.
 - (h) Legible Professional Engineer's seal and signature.
 - (i) The following note: "The Engineer who prepared these plans is responsible for their adequacy. In approving these plans, LaSalle County has relied on the professional representations and design judgments made by the registered professional engineer who sealed these plans."
 - (j) The following note: "I, _____, a Texas Registered Professional Engineer, certify that these plans are prepared in accordance with the Road and Drainage Standards of LaSalle County."
- 2.3.2 Notes Sheet. Show the following:
 - (a) Applicable general construction notes.
 - (b) Any applicable special notes.
 - (c) Construction sequencing.
 - (d) Standard Details.
- 2.3.3 Erosion and Sedimentation Control Sheets. Show the following:
 - (a) Scale, north arrow, and legend.

- (b) Proposed temporary erosion and sedimentation control and tree protection measures for street, drainage, and utility construction.
- (c) Stabilized construction entrance detail for location where construction vehicles will enter or exit directly onto public streets.
- (d) Survey of all trees six inches in diameter or greater which are proposed to remain within the limits of a clear zone or sight distance area, showing locations, diameters, and species. (Show methods to be used to preserve trees; i.e., boring, tree wells, guard rail, etc.) LaSalle County reserves the right to require all obstructions, including trees, be removed from the right of way.
- (e) Permanent erosion control measures including revegetation, matting, and any erosion control methods not included on other plan sheets, such as riprap, gabions, retards, etc.
- (f) Proposed construction waste disposal must be approved by the Commissioner(s)/Designated Agent(s) in whose precinct(s) the proposed construction and disposal sites are located.
- (g) Legible Professional Engineer's seal and signature.

2.3.4 Drainage Layout Sheets. Show the following:

- (a) Scale, north arrow, and legend.
- (b) Drainage layout of the subdivision or area of construction, distinguishable line delineating the limits of construction.
- (c) Existing adjoining street layout or other property adjacent to the project, including adjacent subdivision names.
- (d) Location of all existing drainage structures on or adjacent to the project.
- (e) Street names, lot, and block numbers and right-of-way lines.
- (f) Existing contours at two-foot minimal intervals.
- (g) Show entire upstream drainage areas, existing drainage areas, and proposed drainage areas based on improvements and final grading.
- (h) Size in acres, Runoff coefficient (C), and Time of Concentration (ToC) for each drainage area based on pre- and post-development conditions.
- (i) Arrows indicating drainage flow direction for streets and lots.
- (j) All high and low points.
- (k) Proposed drainage facilities.
- (l) All existing and proposed drainage easements as per Final Plat or by separate instrument, including volume and page information.
- (m) Existing and proposed 100-year flood plains for all waterways.
- (n) Clearly show limits of construction.
- (o) Location of applicable city limits, governmental entity, County lines, or any boundary of a utility district with either taxing or regulatory authority within the subject area.
- (p) Legible Professional Engineer's seal and signature.

2.3.5 Street Plan and Profile Sheets.

- (a) Plan. Show the following.
 - (1) The street name.
 - (2) Scale, north arrow, and legend.

- (3) Stationing south to north or west to east with street layout directly over the profile stationing.
 - (4) Right-of-way and paving dimensions.
 - (5) Lot numbers, block numbers, and frontage dimensions.
 - (6) Street names within respective right-of-way.
 - (7) Existing or proposed easements and intersecting right-of-way.
 - (8) Centerline "TIC" marks every 50 feet.
 - (9) Drainage facilities within or intersecting right-of-way and indicate stationing on both sides of structure.
 - (10) Match lines on street plan sheets for continuation of streets on other sheets.
 - (11) Show proposed tie-in to existing streets.
 - (12) Sheet numbers for intersecting streets, and show full intersection, provide dimensions, and give street names.
 - (13) Plan view must transpose directly above profiles stationing when possible. (Station limits shown on the plan view must be the same as the station limits shown on the profile.)
 - (14) Clearly show the beginning and ending of the project.
 - (15) Clearly show all points of curvature (PC), points of tangency (PT), points of intersection (PI), and all relevant curve data with their corresponding station.
 - (16) Location of applicable city limits, governmental entity, County lines, or any boundary of a utility district with either taxing or regulatory authority within the subject area.
 - (17) Legible Professional Engineer's seal and signature.
- (b) Profile. Show the following.
- (1) Scale and legend.
 - (2) Even stations on vertical division lines.
 - (3) Even elevations on horizontal division lines (in right and left margins).
 - (4) Natural ground profiles at left and right right-of-way and street centerline.
 - (5) Proposed bar ditch flow lines.
 - (6) Identify and give elevations at all points of curvature (PC), points of tangency (PT), points of intersection (PI), vertical curve beginning points (PVC), vertical curve ending points (PVT), and vertical curve points of intersection (PVI).
 - (7) Label all vertical curves with the following information: curve length, PVI station and elevation, tangent intercept, tangents and tangent grades, and design "K" values.

2.3.6 Construction Detail Sheets. Show the following:

- (a) Typical pavement design cross-section.
- (b) Safety end treatment details for culvert pipe ends within the roadway clear zone and riprap or headwall details.
- (c) Guard rail details if required.
- (d) Legible Professional Engineer's seal and signature.

2.3.7 Traffic Control Plan Sheet.

A traffic control plan is required for any construction conducted in public right-of-way which may impede or has the potential to interrupt normal traffic flow. Show the following:

- (a) Street plan showing all traffic control devices, taper distances, and traffic flow diagram.
- (b) The traffic control plan must be consistent with the *Texas Manual on Uniform Traffic Control Devices (TxMUTCD)*.
- (c) Legible Professional Engineer's seal and signature.

2.3.8 Roadway Signing and Striping Plan Sheet.

A roadway signing and striping plan shall be submitted along with the street plans. Show the following:

- (a) Street plan showing the locations of all traffic control devices including signs, striping, and pavement markers.
- (b) All traffic control devices shall be fabricated and installed in accordance with the requirements of the *Texas Manual on Uniform Traffic Control Devices*.
- (c) Legible Professional Engineer's seal and signature.

2.3.9 Utility Plans.

Plans for water and wastewater utilities proposed by the developer to be located within the County right-of-way shall be designed by a Registered Professional Engineer, licensed to practice within the State of Texas, and shall conform to the standards and specifications established for that particular utility. The County review of Utility Plans will be for the purpose of verifying that appropriate details are used for street cuts, and traffic control, and utility placement within roadway rights-of-way. The Engineer of Record shall be solely responsible for the design of utility improvements. The County will not review Utility Plans for the purpose of verifying that the design is done according to relevant utility design standards. Legible Professional Engineer's seal and signature is required on each sheet.

2.4 **Engineer's Drainage Report Requirements**

2.4.1 The name of the subdivision or project.

2.4.2 The name and address and phone number of the engineering firm which prepared the report and the name of the design engineer.

2.4.3 A brief description of the scope of the project, including the name and classification of the relevant watershed.

- 2.4.4 A brief description of the Hydrologic Model (Rational Method, SCS, HEC 1, etc.) used and an explanation on why that model was chosen.
- 2.4.5 Provide the following for each drainage area:
- (a) Area in acres (A)
 - (b) Time of Concentration (ToC) in minutes based on pre- and post-development conditions.
 - (c) Rainfall Intensity (I) for the 2-year, 10-year, 25-year, and 100-year events. (I_2 , I_{10} , I_{25} , and I_{100})
 - (d) Runoff Coefficient (C) for the 2-year, 10-year, 25-year, and 100-year events. (C_2 , C_{10} , C_{25} , and C_{100}) based on pre- and post-development conditions. Or SCS curve number depending on hydrologic model used.
 - (e) Runoff flow volumes (Q) for the 2-year, 10-year, 25-year, and 100-year events. (Q_2 , Q_{10} , Q_{25} , and Q_{100})
- 2.4.6 If a computerized model is used provide printouts of the model's input and output. Otherwise clearly show all pertinent calculations.
- 2.4.7 All relevant culvert design calculations.
- 2.4.8 All relevant detention pond design calculations.
- 2.4.9 Legible Professional Engineer's seal and signature.

2.5 Street and Drainage Design Criteria:

The basic construction standards for Subdivision streets in LaSalle County are laid out in this Appendix. However, LaSalle County reserves the right to impose higher, reasonable standards based on good engineering principles when the size, layout, or topography of the Subdivision indicate that the basic design and construction standards of the County would not adequately protect the public health, welfare, and safety. In such cases, LaSalle County may consult with the Applicant, and/or an independent professional engineer licensed in the state of Texas, and may require the Applicant to meet a higher standard. If a higher standard is to be required, the Commissioners Court shall vote on that standard and shall provide the Applicant with written notice of what is to be required.

**SECTION 3
SPECIFICATIONS FOR PAVING AND DRAINAGE IMPROVEMENTS**

3.1 Excavation and Subgrade Preparation

3.1.1 Description: The work to be performed under this specification will consist of excavation and grading necessary for the preparation of the road-bed subgrade, roadside and drainage ditches, and shall include the removal and satisfactory disposal of all trees, shrubs, brush, rock and other debris being cleared within the right-of-way.

3.1.2 Construction Methods: The site should be cleared and stripped of vegetation. Only the footprint of the road must be stripped of the vegetation. After this is done, the excavation and grading may proceed in conformity with the plans and specifications, and as directed by the Commissioners Court or Designated Agent.

All subgrade and excavation work shall be in conformance with the spirit of these plans and in the directions of the design engineer. Builders are expected to use good construction practices as commonly understood in Central and South Texas. If questions arise about the interpretation of these specifications – in this section or others – the Commissioners Court shall decide the issue. The decision of the Commissioners Court may be appealed to Commissioners Court.

The Contractor shall at all times make ample provisions for completely and readily draining the subgrades and excavation.

3.1.3 Maintenance of the Finished Subgrade: The finished subgrade shall be maintained to the proper grade, cross section and density by the Contractor until subbase or base material is placed on it. All such maintenance, including recompacting necessary as a result of precipitation or excessive drying, shall be the responsibility of the Contractor. All construction traffic shall be uniformly distributed over the subgrade.

3.1.4 Inspection: Prior to the installation of the base material, the compacted subgrade shall be inspected by the Precinct Commissioner or Designated Agent. The owner or agent shall notify the Precinct Commissioner or Designated Agent forty-eight (48) hours prior to the time when the inspection is needed.

3.2 Embankment

3.2.1 Description: Embankments or fills shall be constructed at the locations and to the lines and grades indicated on the drawings, or as established. Materials placed in fill shall be free from all vegetable matter, trash, and stone having a maximum dimension greater than six inches.

3.2.2 Construction Methods: Embankments shall be formed of excavated materials placed in successive layers of such widths and lengths as are suited to the sprinkling and compaction method utilized. Embankments shall be constructed in layers not exceeding six inches in thickness after compaction.

The Contractor shall add moisture to or shall dry by aeration, each layer as may be necessary to meet the requirements of this specification for compaction. The addition of moisture to or drying

by aeration of, each layer, shall be accompanied with thorough mixing so as to bring all material in each layer to a uniform moisture content.

Compaction shall be accomplished with tamping rollers, discs, and pneumatic rollers. Soft areas that develop under construction operations shall be scarified, aerated or moistened as required, and compacted to the full depth required to obtain the specified density for each layer. Portions of embankments which are too near adjacent walls, pavements or other fixed objects to permit use of the above specified rolling equipment for compacting, and other portions which the roller cannot reach for any reason, shall be thoroughly compacted by tamping in two-inch layers with mechanical tampers or other equipment as approved by the Precinct Commissioner or Designated Agent.

Any damage to adjacent walls, pavements or other fixed objects, shall be replaced or repaired at the expense of the Contractor.

All road subgrade and embankments shall be compacted to a minimum density of ninety-five percent (95%), according to test method TEX-114-E.

3.3 Flexible Base

3.3.1 Description: This item shall consist of a base course for the asphaltic concrete or other paving, and shall be composed of crushed material constructed as specified below.

3.3.2 Materials: The flexible base shall be constructed of material from an approved source. Stabilization shall be provided as necessary. The material shall consist of durable stone particles mixed with an approved binding material, meeting the following requirements:

- Type A, Grade 1 or 2, as described in "TxDOT Standard Specification for Construction of Highways, Streets, and Bridges," latest edition.

3.3.3 Construction Methods: The base material shall be placed in lifts on the prepared subgrade in uniform courses with the compacted thickness to be no more than 6 inches nor less than 4 inches per lift. Material deposited on the subgrade shall be spread and shaped the same day unless otherwise directed by the Precinct Commissioner or Designated Agent. The course shall then be sprinkled as required and rolled as directed until a uniform compaction is secured. Through this entire operation, the shape of the course shall be maintained by blading and the surface, upon completion, shall be smooth and in conformance with the typical sections shown on the plans and to the established lines and grades. All irregularities, depressions or weak spots which develop shall be corrected immediately by scarifying the area affected, adding suitable material as required, and reshaping and recompacting by sprinkling and rolling. Material excavated in preparation of the subgrade may be utilized in the construction of adjacent shoulders and slopes or otherwise disposed of as directed. Any additional material required for the completion of the shoulders and slopes shall be secured from approved sources designated by the Precinct Commissioner or Designated Agent. Each course of base shall be compacted to a minimum density of 100 percent (100%), according to TxDOT Test Method Tex-113-E. After final compaction, a field density test shall be required at intervals no less than 300 feet, at locations representative of the entire road base. Intermediate points will be tested if required by the Precinct Commissioner or Designated Agent. The cost of these tests shall be borne by the Subdivider.

- 3.3.4 Thickness Control: The thickness of the compacted flexible base may vary from a maximum of 1/2 inch less than specified to a maximum of 1 inch more than specified. Deviations not within this tolerance shall be corrected.
- 3.3.5 Inspection: Prior to the installation of the paving, the compacted base material shall be inspected by the Precinct Commissioner or Designated Agent. The Owner or agent shall notify the Precinct Commissioner or Designated Agent forty-eight (48) hours prior to the time when the inspection is needed.

3.4 Two Course Surface Treatment

- 3.4.1 Description: This item shall consist of a wearing surface composed of two applications of asphaltic material, each covered with aggregate constructed on the prepared base course as herein specified and in accordance with the details shown on the plans. All specifications in this item shall be in conformance with the TxDOT Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, items 300, 302, and 316.
- 3.4.2 Air temperature: Two course surface treatment shall not be applied when the air temperature is below 60 degrees F, or when it is anticipated that the air temperature will fall below 50 degrees F within the (20) days following application. Air temperature shall be taken in the shade and away from artificial heat. Asphaltic material shall not be placed when general weather conditions, in the opinion of the Precinct Commissioner or Designated Agent, are not suitable.
- 3.4.3 Materials:

Aggregates are to be composed of sound and durable particles of crushed gravel, crushed stone, crushed slag, or natural rock. These materials shall meet the requirements as shown in Table 3 of TxDOT Standard Specifications item 302.

Aggregate to be used shall meet requirements of Item 302 and when tested by Test Method TEX-200-F, Part I, shall be to the gradation requirements of:

For the first course:

- Type B, Grade 3 (non-lightweight for the first course. Approximate Application Rate: Minimum – one cubic yard covers 80 square yards (1:80). Maximum – one cubic yard covers 100 square yards (1:100).

For the second or final course:

- Type B or PB, Grade 4. Approximate Application Rate: Minimum -- one cubic yard covers 90 square yard (1:90). Maximum – one cubic yard covers 110 square yard (1:110).

Asphaltic materials shall be AC-5 Asphaltic Cement or HFRS-2 High Float Anionic Emulsion as specified by Item 300 of TxDOT 1993 Standard Specifications. Application temperature for AC-5 shall be between 275 degrees F and 350 degrees F and for HFRS-2 shall be between 120 degrees F and 160 degrees F. Rate of application shall be 0.35 - 0.45 gallons per square yard for the

first course and 0.25-0.35 gallons per square yard for the second course. HFRS-2, if used, shall be applied at the upper end of these application rates.

3.5 Construction Methods: The area to be treated shall be cleaned of dirt, dust, or other deleterious matter by sweeping or other approved methods. If it is found necessary by the Precinct Commissioner or Designated Agent, the surface shall be lightly sprinkled with water just prior to the first application of asphaltic material. An optional primecoat can be applied prior to the first application.

Asphaltic material of the type and grade shown on the plans and/or those requirements for the first course shall be applied on the clean surface by an approved type of self-propelled pressure distributor so operated as to distribute the material in the quantity specified, evenly and smoothly, under a pressure necessary for proper distribution. The Contractor shall provide all necessary facilities for determining the temperature of the asphaltic material in all of the heating equipment and in the distributor, for determining the rate at which it is applied, and for securing uniformity at the junction of two distributor loads. The distributor shall have been recently calibrated and the Precinct Commissioner or Designated Agent shall be furnished an accurate and satisfactory record of such calibration. After beginning work, should the yield of the asphalt material appear to be in error, the distributor shall be recalibrated and/or application rate adjusted in a manner satisfactory to the Precinct Commissioner or Designated Agent before proceeding with the work.

Asphaltic material placement shall also meet requirements of TxDOT Item 316. No traffic or hauling will be permitted over the freshly applied asphaltic material until immediate covering is assured.

Aggregate placement shall also meet the requirements of TxDOT Item 316. The type and grade shown on the plans and/or these requirements for the first course, shall be immediately and uniformly applied and spread by an approved self-propelled continuous feed aggregate spreader, unless otherwise shown on the plans or authorized by the Precinct Commissioner or Designated Agent in writing. The aggregate shall be applied at the approximate rates indicated on the plans and/or these requirements and shall be rolled and as directed by the Precinct Commissioner or Designated Agent. Rollers shall be maintained in good repair and operating condition and shall be approved by the Precinct Commissioner or Designated Agent.

The Contractor shall be responsible for the maintenance of the surface of the first course until the second course is applied.

The entire surface shall be broomed or raked as required by the Precinct Commissioner or Designated Agent and shall be thoroughly rolled with power rollers, self-propelled type, weighing not less than 6 tons nor more than 12 tons. All wheels shall be flat.

The second course shall consist of asphaltic material and aggregate of the type and grade indicated on the plans and/or these requirements for the second course. The asphaltic material and aggregate for this second course shall be applied and covered in the same manner specified for the first course. The surface shall thoroughly rolled as specified for the first course. Asphaltic materials and aggregates for both courses shall be applied at the approximate rates indicated on the plans and as directed by the Precinct Commissioner or Designated Agent. After both courses have been installed, lightly broom off any remaining loose aggregate from final surface.

The Contractor shall be responsible for the maintenance of the surface until the work is accepted by the Precinct Commissioner or Designated Agent.

The Contractor shall be responsible for the proper preparation of all stockpile areas before aggregates are placed thereon, including leveling and cleaning of debris necessary for the protection of the aggregate to prevent any contamination thereof.

All storage tanks, piping, retorts, booster tanks and distributors used in storing or handling asphaltic materials shall be kept clean and in good operating condition at all times and they shall be operated in such manner that there will be no contamination of the asphaltic material with foreign material. It shall be the responsibility of the Contractor to provide and maintain in good working order a recording thermometer at the storage heating utility at all times.

3.6 Drainage Facilities

3.6.1 **Description:** This item shall govern the furnishing of all drainage culvert pipe, concrete headwalls, and reflector posts as shown on the Plans and herein specified, and installing the same as designated on the Plans or by the Precinct Commissioner or Designated Agent in conformity with the lines and grades given.

3.6.2 **Materials:** The culvert pipe shall be of size, length, and gauge as shown on the engineered plans. Corrugated aluminized steel pipe shall be as specified by item 460 of the TxDOT Standard Specifications. Reinforced concrete pipe shall be as specified by Item 464 of the same. All pipe shall be new and unused and shall not have been damaged by handling or shipping.

Reflector posts shall be 6 ft 1 in, 12 lbs per foot, galvanized steel posts equipped with 6 inch by 12 inch or 3 inch by 3 inch amber reflectors. The length of the post shall be adequate to place the reflector assembly 48 inches above the centerline elevation of the street and anchor the post approximately 48 inches into the ground.

Concrete headwalls and/or rip-rap shall be constructed of 3000 psi, five sack, concrete meeting the requirements of Item 421 of TxDOT Standard reinforced with deformed bars or wire mesh meeting the requirements of Item 440 of same. All headwalls and/or rip-rap shall be of the dimensions and in the locations shown on the plans.

3.6.3 **Construction Methods:** Culvert pipe shall be installed to the lines and grades shown on the Plan or as specified by the Commissioners Court or Designated Agent. The pipe shall be bedded along its complete length and the backfill around the pipe shall be compacted. The installation of all culvert pipes shall be in general conformance with the appropriate sections of the TxDOT Standard Specifications. All culvert pipes located in streets or roads shall be provided with reflector posts. The reflector post shall be equipped with one reflector facing in each direction of traffic flow. Reflector posts shall be provided on the ends of the concrete headwalls or rip-rap as shown on the Plans. The concrete headwalls or rip-rap shall be of the dimensions and at the locations shown on the plans. The headwalls shall be formed on their exposed surfaces, which shall be grouted and broom finished upon removal of the forms.

3.6.4 **Culverts:** Culvert pipe shall be clean and free of debris.

3.7 Channel Excavation

- 3.7.1 Description: Channel Excavation shall consist of required excavation for all channels, the removal and proper utilization or disposal of all excavated materials, and constructing, shaping and finishing of all earthwork involved in conformity with the required lines, grades and typical cross sections and in accordance with the specifications and requirements herein outlined. Excavated topsoil can be used in accordance with County standards. It is the responsibility of the contractor to dispose of excavated trash in accordance with County standards and at an approved landfill.
- 3.7.2 Construction Methods: All suitable materials removed from the excavation shall be used, insofar as practicable, in the formation of embankments as required, or shall be otherwise utilized or satisfactorily disposed of as indicated on plans, or as directed, and completed work shall conform to the established alignment, grades and cross sections. During construction, the channel shall be kept drained, insofar as practicable, and the work shall be prosecuted in a neat and workmanlike manner. Unsuitable channel excavation or excavation in excess of that needed for construction, shall be known as "Waste" and shall become the property of the Contractor to be disposed of by him.
- Channel Excavation shall include the removal and replacement of all fence lines crossing the channels and the installation of gates and water gaps as shown on the plans.
- All channels and that area adjacent to the area which has been disturbed by construction equipment shall be seeded with Bermuda grass or other grass as approved by the Commissioners Court or Designated Agent at the rate of eight pounds per acre (8 lb/ac). Seeding shall conform to item 164 of the TxDOT Standard Specifications.

3.8 Miscellaneous

- 3.8.1 Signage: Street name signs, traffic control signs, speed limit signs, etc., shall all conform to the requirements of the TxDOT Standard Specifications when applicable and/or the "Uniform Manual of Traffic Control Devices".
- For all developments proposing new street construction, the developer's engineer shall provide - as part of the construction plans - a narrative statement in recordable format, to be recorded with the Final Plat, listing the type and location of all proposed signs for directing and controlling traffic.
- The Developer or Subdivider shall put all traffic signs in place, or, at the sole discretion of the Commissioners Court, the County may elect to install the signs, in which case the Developer or Subdivider shall pay the County the estimated actual cost of the signs plus a reasonable amount for the estimated actual cost of county labor.
- 3.8.2 Completion Certificate: At the time a final inspection and release of construction security is requested, the design engineer shall provide a complete set of "as-built" construction drawings and shall certify that all road and drainage construction has been completed in substantial accordance with previously approved plans and

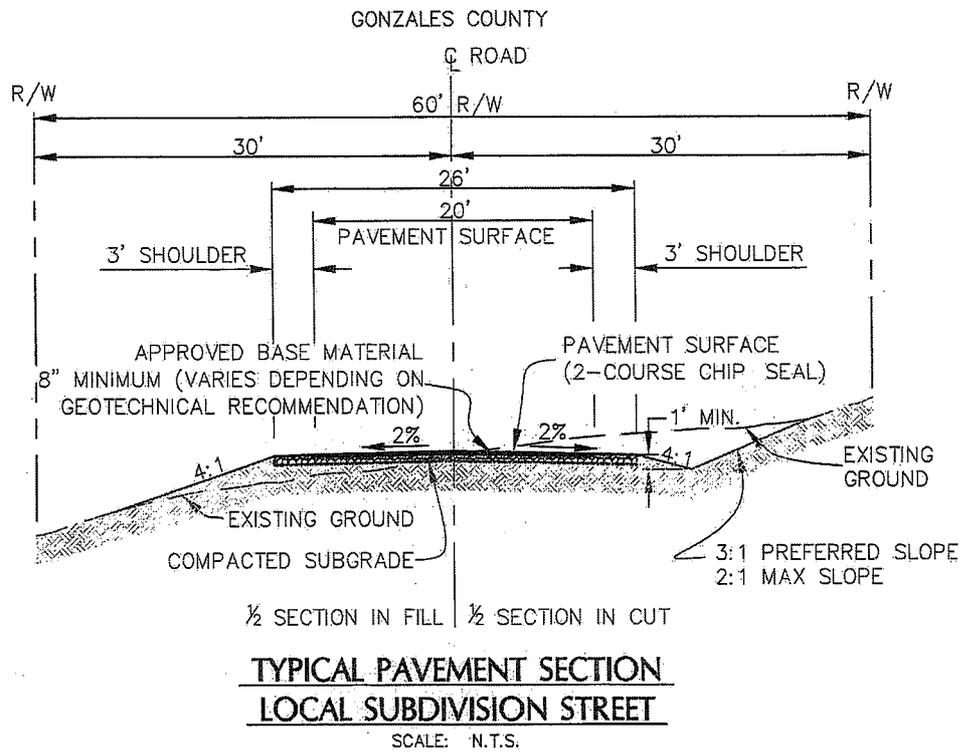
specifications, except as noted; and the design engineer shall also certify that the approved signage plan has been put into place. No performance security will be released without this exhibit.

- 3.8.3 Equivalency: All provisions of these regulations are intended to allow for the use of equal or better materials and methods. It is the responsibility of the design engineer and engineer certifying the geotechnical report to demonstrate that all provisions in these standards are met or exceeded by the alternate materials and methods to the satisfaction of the Commissioners Court or Designated Agent of the Commissioners Court.

Appendix B: Typical Road Cross-Section
Tab 5

APPENDIX B

Typical Road Cross-Section



P:\927-60\p\planning\concept.m\Typical Pavement Section.dwg

**Appendix C: Survey and Infrastructure Requirements for
Manufactured Home Rental Communities
Tab 6**

APPENDIX C

Survey and Infrastructure Requirements for Manufactured Home Rental Communities in LaSalle County

Preamble:

Whereas, the 76th State Legislature of the State of Texas has enacted legislation amending Section 232.007, Texas Local Government Code, Subsection (a) and adding Subsections (c) through (h) enabling Commissioners Courts to adopt infrastructure requirements for Manufactured Home Rental Communities; and:

Whereas, due notice was given of a meeting and public hearing to determine whether the Commissioners Court of LaSalle County, Texas should enact an order establishing infrastructure requirements for Manufactured Home Rental Communities; and

Whereas, the Commissioners Court of LaSalle County, Texas finds that the requirements enumerated below will help to insure the safe ingress and egress of emergency vehicles, protect against loss of life and property in the event of flooding or other emergencies, and insure adequate water and wastewater facilities for the citizens of LaSalle County; and

Whereas, the Commissioners Court of LaSalle County, Texas has considered the matter and deems it appropriate to enact this Order adopting minimum infrastructure requirements for Manufactured Home Rental Communities,

Now, therefore, be it resolved and ordered, that the Commissioners Court of LaSalle County, Texas, meeting in open session this 8th day of April, 2013, adopts the following minimum infrastructure requirements for Manufactured Home Rental Communities:

SECTION 1
DEFINITION OF AFFECTED DEVELOPMENTS

- 1.1 As used in this Order, the term “Manufactured Home Rental Community,” abbreviated as MHRC, means any plot or tract of land that is separated into two or more spaces that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as residences. “Manufactured Home” means any manufactured home or mobile home manufactured to the code or specifications of the federal Department of Housing and Urban Development, and/or any residence as defined by Section 3 of the Texas Manufactured Housing Standards Act (Article 5221, Texas Civil Statutes); used collectively, the term “Manufactured Home” refers to both manufactured homes and mobile homes.
- 1.2 **Definitions:** Streets and roads- A public road, a private drive, or any other avenue of ingress or regress intended to provide access to all or any part of the MHRC consisting of more than one space.

SECTION 2
CONSTRUCTION START

- 2.1 Construction of a proposed MHRC may not begin before an Infrastructure Development Plan has been approved by the Commissioners Court or by a county official or employee designated by resolution to act as an agent of the Court.

SECTION 3
UTILITY HOOK-UPS

- 3.1 A utility may not provide utility services, including water, sewer, gas, or electric services to an MHRC until a Final Survey and an Infrastructure Development Plan have been approved by the Commissioners Court.

SECTION 4
FINAL SURVEY AND INFRASTRUCTURE DEVELOPMENT PLANS REQUIRED

- 4.1 The owner of a tract of land intended to be used as a MHRC shall have prepared and submitted to the County a Final Survey and an Infrastructure Development Plan (IDP). In the rare event that there will be no infrastructure in the proposed MHRC, then only a Final Survey will be required. The owner shall submit eight blueline or blackline copies and two reproducible prints of the Final Survey, and shall submit eight blueline or blackline copies and two reproducible prints of the IDP and eight copies of supporting materials. All original materials should have original seals and signatures of the Texas Registered Professional Land Surveyor and Texas Registered Professional Engineer who prepared them. The Final Survey and the IDP shall show or be accompanied by the following information:
- 4.2 **DRAWING REQUIREMENTS:** The north arrow, graphic scale and date shall be shown. The Final Survey and IDP shall be drawn on 24”x36” sheets to a scale not exceeding one

inch equals two hundred feet (1"=200'). The recording Final Survey and IDP shall be on permanent type material equivalent or superior to Mylar. If the recording Final Survey and IDP is a photographic reproduction of a larger scale original, the reduction shall be no more than 50%. All figures and letters shown must be plain, distinct, and of sufficient size as to be easily read, no smaller than 0.09 inches in height, and must be of sufficient density to make a lasting and permanent record. A vicinity map shall be included that shows the general location of MHRC in relation to major roads, towns, cities, or topographic features. All county, city, school district, or special taxing districts that fall on or adjacent to the MHRC must be shown on the Final Survey and the IDP.

- 4.3 MANUFACTURED HOME COMMUNITY DETAILS:** The name of the MHRC, graphic scale, north arrow, names of streets and/or drives, block and space boundaries, and block and space numbers within the MHRC shall be shown. Adjacent property owners, subdivisions and MHRCs shall also be shown and identified by owner's name and deed or plat reference.
- 4.4 OWNER IDENTIFICATION:** The name, addresses, and telephone numbers of the owner or owners of a proposed MHRC, and the name, address and phone numbers of the surveyor or engineer responsible for the preparation of the Final Survey and IDP shall be shown. If the owner is a corporation, partnership or joint venture, the names and address of the corporate officers, partners or joint venturers shall be provided.
- 4.5 BOUNDARY LINES:** The perimeter boundary of the community and each boundary or space shall be shown with bearings and distances, referenced to a corner of the original Final Survey and IDP. The bearings and distances shall be shown with distances accurate to one-hundredth of a foot and bearings accurate to one-hundredth of a second of a degree. Curves shall be shown with curve length, radii, and chord bearing and distance. Any and all other information necessary to duplicate the Final Survey and IDP on the ground is required. The square footage or acreage to the nearest one-hundredth of each space must be shown in each Final Survey and IDP. A table of space square footage or acreage and the total square footage or acreage must be shown.
- 4.6 UTILITY SERVICE:** Each utility service shall approve the Final Survey and IDP in writing and provide the County with a letter certifying its approval and its ability to provide service to the MHRC.
- 4.7 LAYOUT OF SPACES, DRIVES, EASEMENTS, SETBACK LINES, DRAINAGE:** Location of spaces, drives, roads, public highways, utility easements, parks, benchmarks, 100-year flood plain boundaries and other pertinent features, shall be shown by bearing and distance. The bearings and distances shall be shown with distances accurate to one-hundredth of a foot and bearings accurate to one-hundredth of a second of a degree. Curves shall be shown with curve length, radii, central angle and chord bearing and distance. Any and all other information necessary to duplicate the Final Survey and IDP on the ground is required. The location of drainage easements and other public rights of way or future rights of way shall be shown. The names and locations of all drives shall be clearly shown, and shall be Coordinated with the County's 911 Coordinator and to avoid confusion or duplication in street names. A letter from the County's 911 Addressing Coordinator shall be provided to

the County certifying drive name approval. One 911 address will be provided to the rental community; unit numbers are required to be assigned and clearly marked for each rental space as shown on the Final Survey and IDP

- 4.8 FLOODPLAIN AND DRAINAGE INFORMATION:** In order to protect property and life, as provided for in Chapters 232.007 and 240.905 of the Texas Local Government Code, the IDP shall include a drainage plan and floodplain delineation, prepared in accordance with good engineering practices, identifying areas included in the 100-year floodplain as well as the proposed finished floor elevations of any manufactured homes to be placed in proximity to the floodplain. Finished floor elevations must be at least one foot above base flood elevation. In addition, the IDP must include a reasonable plan based on good engineering practices signed and sealed by a Texas Registered Professional Engineer to provide for adequate drainage for the MHRC without increasing the peak flow under post-development conditions for a 100-year storm event. Elevation contours should be at no less detail than two-foot (2') intervals, based on NGVD 83 datum. All Special Flood Hazard Areas must be identified by the most current Flood Insurance Rate Maps published by the Federal Emergency Management Agency. For each space containing 100-year flood plain, sufficient additional contours to identify and delineate the 100-year floodplain and regulatory floodway, if any. If base flood elevations have not already been established, they shall be established by a Registered Professional Engineer. For each space containing 100-year flood plain, minimum Finished Floor Elevation must be provided on plat and development below the Finished Floor Elevation prohibited by plat note. A drainage plan depicting the anticipated flow of all drainage onto and from the Subdivision and showing all major topographic features on or adjacent to the property including all water courses, 100-year floodplain boundaries, ravines, swales, ditches, bridges, and culverts. The location and size of all proposed drainage structures, including on-site retention and/or detention ponds and easements and the impact of space and drive layouts on drainage. Depiction of all streams, rivers, ponds, lakes, and other surface water features.
- 4.9 ON-SITE SEWAGE:** If utilizing individual on-site sewage facilities, each space must meet the requirements of the LaSalle County Rules for On-Site Sewage Facilities. Viable percolation area must be shown. Space numbers and block designations shall be shown on the IDP. Each space shall have a minimum of 50 feet of road or drive frontage.
- 4.10 CERTIFICATION AND DEDICATION OF OWNER:** The Owner shall certify the dedication for public use forever all streets, alleys, utility and drainage easements, parks, and any other land dedicated for public use, on the first page of the IDP with signature and acknowledgment before a notary public.
- 4.11 CERTIFICATION BY REGISTERED PROFESSIONAL LAND SURVEYOR:** The Texas Registered Professional Land Surveyor shall certify on the first page of the Final Survey and IDP that the survey correctly represents a survey made on the ground under his supervision, and the dimensions, bearings, acreage and other technical information needed for platting each space shall be shown on the Final Survey and IDP. Final Surveys and IDPs shall not be approved until benchmarks are placed and placement is certified by the Surveyor.

- 4.12 CERTIFICATION AND APPROVAL BY CITY:** Certification of approval signed by the appropriate representatives of any city having extraterritorial jurisdiction over the area in which the MHRC is located shall be placed on the first page of the IDP. All information required by the city for approval, i.e. plans and specifications, shall also be submitted to the County along with the IDP.
- 4.13 RESTRICTIONS OF COMMUNITY:** A copy of the Covenants, Conditions and Restrictions (CCRs), if any, within the MHRC shall accompany the IDP, and shall be notarized and filed for record in the office of the County Clerk.
- 4.14 STATUS OF AD VALOREM TAXES:** Each owner or applicant shall provide tax certificate(s) demonstrating there are no delinquent taxes due or owed for any and all tracts containing the MHRC as furnished through the LaSalle County Tax Assessor/Collector's Office.
- 4.15 STREET STANDARDS:** Streets shall be arranged and constructed so as to provide each manufactured home with direct access to an all-weather driveway suitable for two-way traffic, drive drainage, width, subgrade, base and driving surface shall be designed using good engineering practices consistent with the express purpose of, at a minimum, assuring speedy emergency access to each home or manufactured home in the community. "Flag lot" spacing or other contrivances which unduly inhibit proper drive maintenance or result in lengthy private drives that are likely to restrict the practicable ingress and egress of emergency vehicles in all types of weather are prohibited. Drive plans, section profiles, and a prospective maintenance plan and schedule for all drives shall be attached as part of the IDP. One source of appropriate drive specifications is the Road and Drainage Specifications contained as part of the LaSalle County Subdivision and Development Rules.
- 4.16 DRAINAGE STANDARDS:** In order to protect property and life, as provided for in Chapters 232.007 and 240.905 of the Texas Local Government Code, the IDP shall include a drainage plan, floodplain delineation, and floodway delineation, prepared in accordance with good engineering practices, identifying areas included in the 100-year flood plain as well as the proposed finished floor elevations of any manufactured homes to be placed in proximity to the floodplain. Finished floor elevations must be at least one foot above base flood elevation. In addition, the IDP must include a reasonable plan based on good engineering practices signed and sealed by a Texas Registered Professional Engineer to provide for adequate drainage for the MHRC without increasing the peak flow under post-development conditions for a 100 year storm event.
- 4.17 IMPROVEMENTS STATEMENT:** Each IDP shall have the following note on the first page. "The paving, grading and easement or drainage improvements associated with this IDP do not constitute acceptance of same for maintenance purposes by LaSalle County." When IDP or drainage plans are provided, the engineer shall certify by signing and sealing on the first page of the IDP the following statement: "I, _____, a Texas Licensed Professional Engineer, do hereby affirm to the best of my knowledge, information and belief and based upon the information provided, the drainage improvements shown on

this Infrastructure Development Plan are in accordance with good engineering practices, laws, and regulations and will not increase runoff above undeveloped conditions. I further declare that I will accept full responsibility for the integrity of the drainage design and will defend and hold harmless LaSalle County from any claim or litigation arising from any errors, omissions, or other acts of negligence in the preparation of same.”

- 4.18 MEETING WITH PRECINCT COMMISSIONER: It is recommended that Applicants set up a meeting with the Precinct Commissioner before preparing the IDP.

SECTION 5
FINAL SURVEY AND IDP APPROVAL

The Commissioners Court of LaSalle County shall approve or reject the Final Survey and/or IDP within 60 business days of its being submitted. Failure to reject the plan within the time prescribed shall constitute the County’s acceptance of the plan as required by Section 232.007 of the Texas Local Government Code.

SECTION 6
INSPECTION AND CONFIRMATION OF CONSTRUCTION

The Commissioners Court of LaSalle County shall approve or reject the IDP prior to the commencement of construction of any drive, drainage or utility improvements. The Owner, or the owner’s authorized agent, shall arrange a preconstruction meeting with the Precinct Commissioner and/or Designated Agent to discuss the timing and nature of inspections by the County during all phases of construction. The County may designate a private engineer, road contractor, testing company or other entity to serve as its agent for inspections. In any event, the applicant shall be required to pay for any reasonable testing requested by the County or Designated Agent. The final inspection shall occur no later than the second business day after the owner delivers written confirmation that all improvements have been completed to the standards established in the IDP as required by Section 232.007 of the Texas Local Government Code. If the County determines that the infrastructure complies with the IDP, the County shall issue a certificate of compliance no later than the fifth business day after the date of the final inspection; or, where no inspection is required, no later than the fifth business day after the receipt of the owner’s letter of completion. If the County determines that the infrastructure does not comply with the IDP, the MHRC may not be occupied until those deficiencies identified by the County are remedied to the satisfaction of the Commissioners Court.

SECTION 7
REVIEW FEES

Review fees shall be established from time to time by the LaSalle Commissioners Courts Court, and are subject to change without notice. At the adoption of these Rules, the review fee shall be set at \$1,250.00 plus \$100.00 per rental space for each space up to 100, and \$15 per rental space for any additional space above 100 at the time the application is filed. The

fee shall be paid to the County Clerk, with proof of payment delivered by the Applicant to the Commissioners Court and the County Judge's office.

SECTION 8

SEVERABILITY

The various points and conditions enumerated in this Order are intended to stand alone as well as part of the larger Order, and, therefore, should any part of this Order be repealed by the Commissioners Court or struck down by a court of law, the remaining parts, points, numbers and conditions of this Order shall remain in effect until expressly repealed or amended by the Commissioners Court of LaSalle County.

**APPLICATION FOR MANUFACTURED HOME RENTAL
COMMUNITY SUBDIVISION**
LaSalle County, Texas

Please Type or Print Information

This form shall be completed by the Property Owner or Applicant and submitted to the County Judge's Office along with the required number of copies of the respective plat, review fee and all other required information.

Type of Document: Infrastructure Development Plan ___ Final Survey ___

Proposed Name of MHRC Subdivision: _____

Applicant/Property Owner's Name: _____

Address or physical location: _____

City: _____ State: _____ Zip: _____ Phone: _____

Surveyor/Engineer: _____

Company Name/Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

Total Acreage of Development: _____ Total Number of Spaces: _____

Legal Description: _____

Intended Use of Spaces (Check all that apply):

Residential Single Family _____ Residential Non-Family _____
Commercial/Industrial _____ Other _____

Water Supply: _____ Electric Service: _____

Telephone service: _____ Sewage Disposal: _____

Gas service: _____ Telephone service: _____

Note: The submission of this application and any plans/drawings, calculations, etc. is an item of public record, and Applicant acknowledges that such records may be viewed or copied by the public.

Date: _____

Applicant

County Use Only

Application Received by: _____ Date Received: _____

Fee Paid \$ _____ Check # _____ Receipt # _____

Appendix D: Fee Schedule
Tab 7

APPENDIX D:

Fee Schedule

D.1. Plat Application Fees

D.1.1. Sketch Plan: There is no fee to discuss a Sketch Plan with the County.

D.1.2. Preliminary Plan: A review fee shall be paid at the time of Preliminary Plan application.

D.1.2. a) If no streets are proposed, the fee shall be \$200; plus, \$5 per Lot for each Lot up to 99 Lots, and \$2.50 for the 100th Lot and for each additional Lot.

D.1.2. b) If streets are proposed, the fee shall be \$3000.00; plus, \$20 per Lot for each Lot up to 99 Lots, and \$10 the 100th Lot and for each additional Lot.

D.1.2. Final Plat: A review fee shall be paid at the time of Final Plat application.

D.1.2. a) If no streets are proposed, the fee shall be \$1000; plus, \$75 per Lot for each Lot up to 99 Lots, and \$2.50 for the 100th Lot and for each additional Lot.

D.1.2. b) If streets are proposed, the fee shall be \$1250; plus, \$100 per Lot for each Lot up to 99 Lots, and \$5 per Lot for the 100th Lot and for each additional Lot.

D.2. Review Fees for Plat Revision (often called Re-Subdivision) and Cancellation

D.2.1. Revision: A review fee shall be paid at the time a Revised Subdivision application or application for Cancellation is submitted. The fee shall be \$100; plus, \$30 per Lot for each Lot up to nine Lots, and \$15 for the 10th Lot and for each additional Lot.

D.3. Review Fees for Manufactured Home Rental Communities.

D.3.1. MHRC Review: A review fee shall be paid at the time an infrastructure plan is submitted for review. The fee shall be \$1250; plus \$100 per unit site (rental space, Lot, or equivalent space) up to 99, and \$10 for the 100th site and for each additional site.

D.4. Review Fees for Proposed Variances

D.4.1. Variances (First Variance): A review fee shall be paid at the time a formal request for Variance is submitted. The fee shall be \$100 for the first Variance requested; plus, \$2 per Lot for each Lot up to 99 Lots, and \$1 for the 100th Lot and for each additional Lot.

D.3.2. Additional Variances: If an Applicant requests more than one Variance per project, an additional review fee is due with the formal Variance request. In addition to the fee mandated in above (in D.3.1.), the Applicant shall pay \$50 per Variance request.

D.5. Other Related Fees

D.5.1. Additional Fees Beyond Subdivision. In addition to the review fees listed here, LaSalle County may impose fees for recordation in the County Clerk's office, and for applications and review related to On Site Sewage Facilities.

D.5.2. Additional Fees for Certain Subdivision Reviews. In the event of a dispute over engineering data or interpretation, or if the County has reason to question an Applicant's calculations related to flood plain delineation, geotechnical specifications, or any other engineering-related issues, the County may impose an additional review fee to cover all or part of the costs of obtaining an independent engineering review. This shall be discussed with the Applicant in advance, so that the Applicant may determine whether to 1) offer the County additional information from its engineers or consultants; or, 2) withdraw its Application. If the Applicant wishes to proceed, and the County determines that it still needs additional information, then the Applicant shall pay an additional fee to LaSalle County as "Additional Engineering Review." This fee shall be equal to the amount charged the County by the firm or person who is to perform the review, or \$500, whichever is less.

D.6. Change Without Notice

D.6.1. Subject to Change. The fees in this Appendix are subject to change at any time by the LaSalle Commissioners Courts Court, provided the action is properly posted under the Texas Open Meetings laws.

D.6.2. Fee Schedule is Stand-Alone. This Appendix is attached to the LaSalle County Subdivision and Development Regulations for the convenience of Applicants, but it is intended as a stand-alone Order and not as an integral part of the County's Subdivision Order.

Appendix E: Model Subdivision Regulations (original form)
Tab 8

**APPENDIX E:
MODEL SUBDIVISION RULES
CHAPTER 16 TEXAS WATER CODE**

See Model Rules, restated, TAB 2 of these Subdivision Regulations

CALLED MEETING MAY 25, 2001

THE COMMISSIONERS'S COURT OF LA SALLE COUNTY, TEXAS MET IN CALLED SESSION ON FRIDAY, MAY 25, 2001 AT 9:00 O'CLOCK A.M. IN THE COMMISSIONERS' COURTROOM OF THE LA SALLE COUNTY COURTHOUSE COTULLA, TEXAS WITH THE FOLLOWING MEMBERS PRESENT AND PRESIDING.

JIMMY P. PATTERSON, COUNTY JUDGE

ROBERTO F. ALDACO, COMMISSIONER PRECT.NO.2

ALBERT AGUERO, COMMISSIONER PRECT.NO.3

DOMINGO B. MARTINEZ, COMMISSIONER PRECT.NO.4

PEGGY MURRAY, COUNTY CLERK

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MOTION WAS MADE BY ALBERT AGUERO AND SECONDED BY DOMINGO B. MARTINEZ TO APPROVE AND ADOPT THE REVISED MODEL SUBDIVISION RULES PURSUANT TO SECTION 16.343 OF THE TEXAS WATER CODE AND OTHER APPLICABLE LAWS OF THE STATE OF TEXAS. SUBDIVISION RULES ARE AS FOLLOWS. MOTION CARRIED.

--000--

File 10

512-

AN ORDER OF THE COMMISSIONERS COURT
OF LASALLE COUNTY, TEXAS

ADOPTING THE REVISED MODEL SUBDIVISION RULES PURSUANT
TO SECTION 16.343 OF THE TEXAS WATER CODE AND OTHER
APPLICABLE LAWS OF THE STATE OF TEXAS.

ADOPTED May 25, 2001

Whereas, the Texas water Development Board has established minimum state standards and model subdivision rules, pursuant to section 16.343 of the Texas Water Code; and

Whereas, on December 13, 1999, the Texas Water Development Board adopted revisions to the State Model Subdivision Rules; and

Whereas, pursuant to Chapter 232, Subchapter B, of the Texas Local Government Code residential subdivisions within counties which are located within 50 miles of an international border must comply with the minimum standards prescribed in the Model Subdivision Rules adopted pursuant to Section 16.343, Texas Water Code; and

Whereas, the County of LaSalle falls under the provisions of Chapter 232, Subchapter B, of the Texas Local Government Code; and

Whereas, pursuant to Sections 16.343 and 16.350 of the Texas Water Code, the Commissioners Court must adopt the revised model subdivision rules for continued participation in the Economically Distressed Area financial programs under Section 15.407 of the Texas Water Code or financial assistance under Subchapter K, Chapter 17 of the Texas Water Code; and

Whereas, the adoption of the revised model subdivision rules is an action taken to fulfill an obligation mandated by state law, this action is exempt from preparation of Takings Impact Asscsmnt pursuant to Chapter 2007.003 (3)(b)(4), Texas Government Code; and

Whereas, pursuant to a public notice published in a newspaper of general circulation on the 24th day of May, 2001, the LaSalle County Commissioners Court convened in a special session on the 25th day of May, 2001, in accordance with the provisions of Section 232.05 of the Texas Local Government Code; and

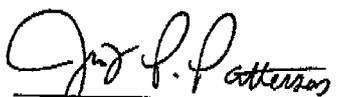
NOW THEREFORE, BE IT ORDERED by the LaSalle County Commissioners Court that:

1. The rules attached and appended hereto, entitled "LaSalle County Model Subdivision Rules", be adopted on this 25th day of May, 2001 and said

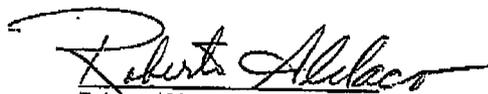
rules shall apply to all the unincorporated areas of LaSalle County, Texas and hereafter every person; firm or corporation shall comply with these rules before the LaSalle County Commissioners Court will approve any plat.

- 2. The rules attached and appended hereto are incorporated herein as though fully set forth in writing in the Order;
- 3. The Model Subdivision Rules adopted by Commissioners Court on August 13, 1990 and amended January 11, 1996 are hereby repealed; and
- 4. A public notice of this Order shall be published in a newspaper of general circulation in LaSalle County, Texas pursuant to the provisions of Section 16.350, Water Code.

THIS ORDER IS HEREBY ADOPTED by the Commissioners Court of LaSalle County, Texas, duly convened and acting in its capacity as governing body of LaSalle County on this 25th day of May, 2001.

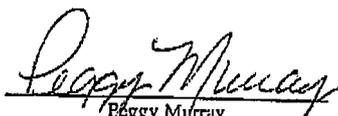

 Jimmy P. Patterson
 LaSalle County Judge

 Raymond A. Landrum, Jr.
 Commissioner PCT #1


 Roberto Aldaco
 Commissioner PCT #2


 Albert Aguero
 Commissioner PCT #3


 Domingo Martinez
 Commissioner PCT #4


 Peggy Murray
 County Clerk

LaSalle County
MODEL SUBDIVISION RULES
(chapter 364)

SUBCHAPTER B. MODEL RULES

DIVISION 1. GENERAL AND ADMINISTRATIVE PROVISIONS

- Section 1.1 Authority and Scope of Rules
- Section 1.2 Purpose
- Section 1.3 Effective Date
- Section 1.4 Repeater
- Section 1.5 Plat Required
- Section 1.6 Supersession
- Section 1.7 Severability
- Section 1.8 Definitions

DIVISION 2. MINIMUM STANDARDS

- Section 2.1 Scope of Standards
- Section 2.2 Water Facilities Development
- Section 2.3 Wastewater Disposal
- Section 2.4 Greywater Systems for Reuse of Treated Wastewater
- Section 2.5 Sludge Disposal
- Section 2.6 Setbacks
- Section 2.7 Number of Dwellings Per Lot

DIVISION 3. PLAT APPROVAL

- Section 3.1 Applications for Plat Approval
- Section 3.2 Final Engineering Report
- Section 3.3 Additional Information
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LaSalle County
MODEL SUBDIVISION RULES
(chapter 364)

DIVISION 1. GENERAL AND ADMINISTRATIVE PROVISIONS

Section 1.1. Authority and Scope of Rules. These rules are adopted by LaSalle County, Texas, under the authority of the Local Government Code, Chapter 232 and Water Code, 16.350. Notwithstanding any provision to the contrary, these rules apply only to a subdivision which creates two or more lots of ten acres or less intended for residential purposes. Lots of ten acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.

Section 1.2. Purpose. It is the purpose of these rules to promote the public health of the county residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of this county, and to apply the minimum state standards for water and wastewater facilities to these subdivisions.

Section 1.3. Effective Date. These rules become effective on the 25 day of May, 2001.

Section 1.4. Repealer. Provisions of Order(s) Number _____, adopted on the 9th day of July, 1990, are hereby repealed, except as to such sections which are retained herein.

Section 1.5. Plat Required.

- (a) The owner of a tract of land located outside the corporate limits of a municipality that divides the tract in any manner that creates two or more lots of ten acres or less intended for residential purposes must have a plat of the subdivision prepared. Lots of ten acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.
- (b) No subdivided land shall be sold or conveyed until the subdivider:
 - (1) has received approval of a final plat of the tract; and
 - (2) has filed and recorded with the county clerk of the county in which the tract is located a legally approved plat.
- (c) A division of a tract is defined as including a metes and bounds description, or any description of less than a whole parcel, in a deed of conveyance or in a contract for a deed, using a contract of sale or other executory contract, lease/purchase agreement, or using any other method to convey property.

Section 1.6. Supersession. These rules supersede any conflicting regulations of the county.

Section 1.7. Severability. If any part or provision of these regulations, or application thereof, to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved

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

Section 1.3. Definitions. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Commissioners court (or court) - The commissioners court of LaSalle County, Texas.
- (2) County - LaSalle County, Texas.
- (3) Drinking water - All water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.
- (4) Engineer - A person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act.
- (5) Final plat - A map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the county records and prepared as described in these regulations.
- (6) Lot - An undivided tract or parcel of land.
- (7) Non-public water system - Any water system supplying water for domestic purposes which is not a public water system.
- (8) OSSF - On-site sewage facilities as that term is defined in rules and/or regulations adopted by TNRCC, including, but not limited to, 30 TAC Chapter 285.
- (9) Platted - Recorded with the county in an official plat record.
- (10) Public water system - A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms individual or served, an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.
- (11) Purchaser - Shall include purchasers under executory contracts for conveyance of real property.
- (12) Retail public utility - Any entity meeting the definition of a retail public utility as defined in

Water Code 13.002.

- (13) Sewerage facilities - The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.
- (14) Subdivider - Any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.
- (15) Subdivision - Any tract of land divided into two or more parts that results in the creation of two or more lots of ten acres or less intended for residential purposes. A subdivision includes re-subdivision (replat) of land which was previously divided.
- (16) TAC - Texas Administrative Code, as compiled by the Texas Secretary of State.
- (17) TNRCC - Texas Natural Resource Conservation Commission.
- (18) Water facilities - Any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use and consumption.

DIVISION 2. MINIMUM STANDARDS

Section 2.1. Scope of Standards. The establishment of a residential development with two or more lots of ten acres or less where the water supply and sewer services do not meet the minimum standards of this division is prohibited. A subdivision with lots of ten acres or less is presumed to be a residential development unless the land is restricted to nonresidential use on the final plat and all deeds and contracts for deeds.

Section 2.2. Water Facilities Development.

- (a) Public water systems.
 - (1) Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility in substantially the form attached in Appendix 1A. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat. Figure: Appendix 1A
 - (2) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the TNRCC. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC 290.38- 290.51 and 290.101-290.120. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of a groundwater availability

study which shall include an analysis of the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply, the subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

- (b) Non-public water systems. Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, a test well or wells located so as to be representative of the quantity and quality of water generally available from the supplying aquifer shall be drilled by the subdivider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity of the available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC 290.103, 290.105, 290.106 and 290.110, either:
- (1) without any treatment to the water; or
 - (2) with treatment by an identified and commercially available water treatment system.
- (c) Transportation of potable water. The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute an emergency.

Section 2.3. Wastewater Disposal.

- (a) Organized sewerage facilities.
- (1) Subdividers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the TNRCC in accordance with 30 TAC Chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 317 from the TNRCC.
 - (2) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement in substantially the form attached in Appendix 1B with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is available to each lot upon completion of construction of the wastewater facilities described on the final plat. Engineering plans for the proposed wastewater collection lines must comply with 30 TAC Chapter 317. Figure: Appendix 1B

- (b) **On-site sewerage facilities.**
- (1) On-site facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of no greater than 5,000 gallons per day must comply with 30 TAC Chapter 285.
 - (2) Proposals for sewerage facilities for the disposal of sewage in the amount of 5,000 gallons per day or greater must comply with 30 TAC Chapter 317.
 - (3) The TNRCC or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with the Texas Health and Safety Code, Chapter 366 and rules in 30 TAC Chapter 285, and in particular 285.4, 285.5 and 285.30-285.39. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC 285.3(b), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

Section 2.4. Greywater Systems for Reuse of Treated Wastewater.

- (a) Organized or municipal sewerage systems. Any proposal for sewage collection, treatment and disposal which includes greywater reuse shall meet minimum criteria of 30 TAC Chapter 210 promulgated and administered by the TNRCC.
- (b) On-site sewerage facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 30 TAC Chapter 285.

Section 2.5. Sludge Disposal. The disposal of sludge from water treatment and sewerage facilities shall meet the criteria of 30 TAC Chapter 312 and Chapter 317.

Section 2.6. Setbacks. In areas that lack a nationally recognized fire code as listed in Local Government Code, 235.002(b)(2) and lack water lines sized for fire protection, setbacks from roads and right-of-ways shall be a minimum of 10 feet, setbacks from adjacent property lines shall be a minimum of five feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies. Setback lines required elsewhere in the orders or rules of the county shall control to the extent greater setbacks are therein required.

Section 2.7. Number of Dwellings Per Lot. No more than one single family detached dwelling shall be located on each lot. A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Proposals which include multi-family residential shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type and design.

DIVISION 3. PLAT APPROVAL

Section 3.1. Applications for Plat Approval.

- (a) **Owner representation.** An application for approval of a plat shall be filed with the county by the record owner of the property to be subdivided or the duly authorized agent of the record owner.
- (b) **Standards.** Every plat creating two or more lots of ten acres or less for residential use shall comply with the standards of Division 2 and the requirements of Division 3 of these rules.

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

(a) **Public water systems.**

- (1) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1A and referenced in Section 2.2(a)(1) of this title. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project which may include in addition to the county the TNRCC and the county health department. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include comments regarding the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.
- (2) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the TNRCC and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include an analysis of the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been

obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

- (b) **Non-public water systems.** Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with Section 2.2(b) of this title. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to Section 2.2(b) of this title does not meet the water quality standards as set forth in that section without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the county at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed subdivision over the next 30 years. Such statement may be based on information available from the Texas Water Development Board's Office of Planning. The description of the required sanitary control easement shall be included.
- (c) **Organized sewerage facilities.**
- (1) Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1B and referenced in Section 2.3(a)(2) of this title. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the TNRCC and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.
 - (2) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the TNRCC. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the TNRCC and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.
- (d) **On-site sewerage facilities.** Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC 285.4(c), including the site evaluation described by 30 TAC 285.30 and all other information required by the county's OSSF order.

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

limited to:

- (1) layout of proposed street and drainage work;
- (2) legal description of the property;
- (3) existing area features;
- (4) topography;
- (5) flood plains;
- (6) description of existing easements;
- (7) layout of other utilities;
- (8) notation of deed restrictions;
- (9) public use areas; or
- (10) proposed area features.

Section 3.4. Financial Guarantees for Improvements.

- (a) **Applicability.** If an adequate public or non-public water system or sewerage facility is not available from a retail public utility, or are not constructed by the subdivider, to serve lots intended for residential purposes of ten acres or less at the time final plat approval is sought, then the commissioners court shall require the owner of the subdivided tract to execute an agreement with the county in substantially the form attached in Appendix 2A secured by a bond, irrevocable letter of credit, or other alternative financial guarantee such as a cash deposit which meet the requirements set forth below. Figure: Appendix 2A.
- (b) **Bonds.** A bond that is submitted in compliance with subsection (a) of this section shall meet the following requirements.
 - (1) The bond or financial guarantee shall be payable to the county judge of the county, in his official capacity, or the judge's successor in office.
 - (2) The bond or financial guarantee shall be in an amount determined by the commissioners court to be adequate to ensure proper construction or installation of the public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.
 - (3) The bond shall be executed with sureties as may be approved by the commissioners court. The county shall establish criteria for acceptability of the surety companies issuing bonds that include but are not limited to:
 - (A) registration with the Secretary of State and be authorized to do business in Texas;
 - (B) authorization to issue bonds in the amount required by the commissioners court; and
 - (C) rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria

contained in the rules and regulations promulgated by the United States Department of Treasury.

- (4) The bond shall be conditioned upon construction or installation of water and wastewater facilities meeting the criteria established by Division 2 of these rules and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the commissioners court.
- (c) Letter of credit. A letter of credit that is submitted in compliance with subsection (a) of this section shall meet the following requirements.
- (1) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$10,000 and less than \$250,000 must be from financial institutions which meet the following qualifications.
- (A) Bank qualifications:
- (i) must be federally insured;
 - (ii) Sleshunoff rating must be 10 or better and primary capital must be at least 6.0% of total assets; and
 - (iii) total assets must be at least \$25 million.
- (B) Savings and loan association qualifications:
- (i) must be federally insured;
 - (ii) tangible capital must be at least 1.5% of total assets and total assets must be greater than \$25 million or tangible capital must be at least 3.0% of total assets if total assets are less than \$25 million; and
 - (iii) Sleshunoff rating must be 30 or better.
- (C) Other financial institutions qualifications:
- (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and
 - (ii) the investment instrument must be registered in the county's name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (2) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$250,000 must be from financial institutions which meet the following qualifications.
- (A) Bank qualifications:
- (i) must be federally insured;
 - (ii) Sleshunoff rating must be thirty or better and primary capital must be at least 7.0% of total assets; and
 - (iii) total assets must be at least \$75 million.
- (B) Savings and loan association qualifications:
- (i) must be federally insured;
 - (ii) tangible capital must be at least 3.0% of total assets and total assets must be greater than \$75 million, or tangible capital must be at least 5.0% of total assets if total assets are less than \$75 million; and

- (m) Sheshunoff rating must be 30 or better.
- (C) Other financial institutions qualifications:
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and
 - (ii) the investment instrument must be registered in the county's name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (3) The letter of credit shall list as sole beneficiary the county judge of the county, in his official capacity, or the judge's successor in office, and must be approved by the county judge of the county. The form of the letter of credit shall be modeled after the form attached in Appendix 2B. Figure: Appendix 2B
- (4) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Division 2 of these rules and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the commissioners court.
- (d) Financial guarantee. The county will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.
- (e) Alternative to county accepting a financial guarantee. The county may approve a final plat under this section without receiving a financial guarantee in the name of the county if:
 - (1) the property being subdivided lies wholly within the jurisdiction of the county;
 - (2) the property being subdivided lies wholly within the extra-territorial jurisdiction of a municipality; and
 - (3) the municipality has executed an interlocal agreement with the county that imposes the obligation on the municipality to:
 - (A) accept the bonds, letters of credit, or other financial guarantees, that meet the requirements of this section;
 - (B) execute the construction agreement with the subdivider; and
 - (C) assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

Section 3.5. Review and Approval of Final Plats.

- (a) Scope of review. The county will review the final plat to determine whether it meets the standards of Division 2 and the requirements of Division 3 of these rules.
- (b) Disapproval authority. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under these rules.
- (c) Prerequisites to approval. Final plat approval shall not be granted unless the subdivider has accomplished the following:
 - (1) dedicated the sites for the adequate water and sewerage facilities identified in the final plat to the appropriate retail public utility responsible for operation and

- maintenance of the facilities; and
- (2) provided evidence that the water facilities and sewerage facilities have been constructed and installed in accordance with the criteria established within these rules and the approvals from TNRCC of the plans and specifications for such construction, including any change orders filed with these agencies; or
 - (3) obtained all necessary permits for the proposed water facilities and sewerage facilities (other than for OSSF permits on individual lots within the proposed subdivision) and has entered into a financial agreement with the county secured by a bond or other alternative financial guarantee such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in Division 3 of these rules.

Section 3.6. Time Extensions for Providing Facilities.

- (a) Reasonableness. The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if
 - (1) any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with Section 3.4 are submitted which will be effective for the period of the extension; and
 - (2) the court finds the extension is reasonable and not contrary to the public interest.
- (b) Timeliness. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.
- (c) Unreasonableness. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Division 2 of these rules.

Section 3.7. Criteria for Subdivisions that Occurred Prior to September 1, 1989.

- (a) Authority and scope. This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before September 1, 1989 and have not been platted or recorded. This section is in addition to the authority of the county to grant a delay or variance pursuant to Local Government Code 232.043 or a rule of the county adopted pursuant to such provision.
- (b) Purpose. It is the purpose of this section to promote the public health of the county residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the jurisdiction of this county, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the county.
- (c) Required plat. In the event that the owner of tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots

fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the commissioners court, and filed, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the commissioners court as provided in this section in lieu of the filing of a plat of the subdivision.

- (d) **Special criteria.** The commissioners court may approve the plat of a residential lot which does not comply with the provisions of Section 1.5(b) of this title (sale restrictions), Section 2.6 of this title (Setbacks), Section 2.7 of this title (Number of Dwellings per Lot), Section 3.2 of this title (Final Engineering Report), and Section 3.4 of this title (Financial Guarantees for Improvements) as applied to an individual subdivided lot if such approval is in harmony with the general purpose and intent of these rules so that the public health, safety, and welfare may be secured and substantial justice done.
- (1) Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.
 - (2) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the division, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the commissioners court may request to support the application, including:
 - (A) a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;
 - (B) the name and address of the original subdivider or the subdivider's authorized agent, if known;
 - (C) a survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and
 - (D) a deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.
 - (3) Approval of plats of individual lots shall be granted subject to the limitations of state law, and based on written findings by the commissioners court that:
 - (A) the lot for which approval is requested is within a tract that was subdivided prior to September 1, 1989, and is not owned by the original subdivider;
 - (B) a plat was required for the subdivision, but has not been filed with the county by the subdivider legally obligated to file it;
 - (C) an existing, currently occupied residential dwelling is located on the lot;
 - (D) existing water and sewer services which comply with the minimum standards set forth herein are available to the lot; and
 - (E) the request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to the public health and safety.

- (e) **Final determination.** The commissioners court shall make the final decision on an application for a waiver, following review and recommendation by the county planning commission or department, if any. The applicant may withdraw a request for a waiver at any point in the process. If the requested waiver application is approved by the commissioners court, the county shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.

DIVISION 4. ENFORCEMENT

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

Section 4.2. General Enforcement Authority of County. The provisions of these rules are enforceable pursuant to the specific provisions hereof related to enforcement and state law including Water Code, Chapter 7 and 16.352, 16.353, 16.3535, 16.354, and 16.3545, and Local Government Code, 232.037 and 232.080.

LaSalle County

APPENDIX 1A. WATER SERVICE AGREEMENT

**AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED
SUBDIVISION**

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

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

TERMS: This Agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to LaSalle County for its approval. The Subdivider plans to construct for the Subdivision a drinking water distribution system to be connected to the Utility's public water system. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the drinking water flow anticipated to be needed by the Subdivision under fully built-out conditions (the anticipated water flow) to be approximately _____ gallons daily.

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

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

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

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

By affixing his or her signature to this Agreement, the person signing for the Utility warrants that

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

This Agreement is effective on _____, 20__.

The Utility

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

The Subdivider

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

LaSalle County
APPENDIX 1B. WASTEWATER SERVICE AGREEMENT

**AGREEMENT REGARDING WASTEWATER SERVICE FOR THE PROPOSED
 _____ SUBDIVISION**

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

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

TERMS: This Agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to LaSalle County for its approval. The Subdivider plans to construct for the Subdivision a wastewater collection system to be connected to the Utility's wastewater treatment system. Such wastewater will consist of domestic sewage, i.e., waterborne human waste and waste from domestic activities such as bathing, washing, and food preparation. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the wastewater flow projected from the Subdivision under fully built-out conditions (the projected wastewater flow) to be approximately _____ gallons daily.

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

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

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

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

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

This Agreement is effective on _____, 20_____.

The Utility

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

The Subdivider

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

LaSalle County

APPENDIX 2A: SUBDIVISION CONSTRUCTION AGREEMENT

1. Parties. This Subdivision Construction Agreement (the Agreement) is by and between the County and the Subdivider. The County is LaSalle County, Texas, acting by and through its Commissioners Court, or authorized representative as designated by the Commissioners Court. The Subdivider is _____, who is the owner, or the authorized agent of owner, of a tract of land located within the geographic area and jurisdiction of the County.

2. Effective Date. This Agreement is effective on the date the County approves the final plat for the subdivision described in Paragraph 3 of this agreement (the Effective Date).

Recitals

3. Subdivider is the owner of the land included in the proposed final subdivision plat of the subdivision, as shown in County's File Number (the Subdivision) and more particularly described by the metes and bounds description attached and incorporated into this Agreement as Exhibit A (the Property); and

4. Subdivider seeks authorization from the County to subdivide the Property in accordance with the requirements imposed by Texas statute and the County's ordinances, regulations, and other requirements; and

5. County ordinances require the completion of various improvements in connection with the development of the Subdivision to protect the health, safety, and general welfare of the community and to limit the harmful effects of substandard subdivisions; and

6. The purpose of this Agreement is to protect the County from the expense of completing subdivision improvements required to be installed by the Subdivider; and

7. This agreement is authorized by and consistent with state law and the County's ordinances, regulations, and other requirements governing development of a subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

Subdivider's Obligations

8. Improvements. The Subdivider agrees to construct and install, at Subdivider's expense, all subdivision improvements required to comply with County orders, ordinances, regulations, and policies governing subdivision approval, specifically including without limitation those improvements listed on Exhibit B attached and incorporated by reference into this Agreement (collectively, the Improvements, any one of which is an Improvement). All Improvements shall be constructed in conformity to the County's requirements, procedures, and specifications, pursuant to construction plans, permits, and specifications approved by the County prior to commencement of construction, and subject to inspection, certification, and acceptance by the County.

9. Completion. Unless a different time period is specified for a particular Improvement in Exhibit B, construction of all the Improvements shall be completed no later than three (3) years after the Effective Date (the Completion Date); provided, however, that if the Subdivider or the Issuer delivers to the County no later than the Completion Date a substitute Letter of Credit satisfying the criteria established by Paragraph 11 and which has an expiration date no earlier than one year from the Completion Date, then the Completion Date shall be extended to the expiration date of that substitute Letter of Credit or any subsequent substitute Letter of Credit provided in accordance with this Paragraph. Upon completion of each of the Improvements, the Subdivider agrees to provide to the County a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

10. Warranty. The Subdivider warrants the Improvements constructed by Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees will be free from defects for a period of one (1) year from the date the County accepts the dedication of a completed Improvement or group of Improvements (the Warranty Period), as such Improvement or group of Improvements is separately identified and listed on Exhibit B, except the Subdivider does not warrant the Improvements for defects caused by events outside the control of the Subdivider or the Subdividers's agents, contractors, employees, tenants, or licensees. The Subdivider agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities. As a condition of the County's acceptance of dedication of any of the Improvements, the County may require the Subdivider to post a maintenance bond or other financial security acceptable to the County to secure the warranty established by this Agreement. If the Improvements have been completed but not accepted, and neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, at the written request of the Subdivider or the Issuer the County shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to an amount equal to the face amount of the maintenance bond or other financial security acceptable to the County.

11. Security. To secure the performance of Subdivider's obligations under this Agreement, Subdivider agrees to provide adequate financial guarantees of performance in the form of a surety bond acceptable to the County, a cash deposit to be held by the County in escrow, or an irrevocable letter of credit in the amount of _____ Dollars (\$ _____) (the Stated Amount), which amount is the estimated total cost of constructing each of the Improvements as shown on Exhibit B. If a letter of credit is provided pursuant to this Agreement, it shall be in a standard form acceptable to the County, shall have an expiration date no earlier than one year from the date of its issuance, and shall be issued by a financial institution having a rating equivalent to the minimum acceptable rating established under the County's financial institution rating system in effect at the time the initial letter of credit is issued pursuant to this Agreement (the Issuer). During the term of this Agreement and subject to the terms of Paragraph 22 of this Agreement, the County may revise the standard form letter of credit it reasonably considers acceptable and necessary to secure the performance of Subdivider's obligations under this agreement. A letter of credit satisfying the criteria of this Paragraph (and any substitute or

confirming letter of credit) is referenced to in this agreement as the "Letter of Credit."

12. **Reduction In Letter of Credit.** After the acceptance of any Improvement, the amount which the County is entitled to draw on the Letter of Credit shall be reduced by an amount equal to ninety percent (90%) of the Quoted cost of the accepted Improvement, as shown on Exhibit B. Upon completion of an Improvement, at the written request of Subdivider or Issuer, and if neither the Subdivider nor Issuer is then in default under this agreement or the Letter of Credit, the County shall complete, execute, and deliver to the Issuer a reduction letter verifying the acceptance of the Improvement and documenting that the Stated Amount has been reduced by stating the balance of the Stated Amount remaining after the reduction required by the first sentence of this Paragraph. No later than sixty (60) days after its receipt of a written request to reduce the Stated Amount submitted by the Subdivider or the Issuer, the County shall determine the Estimated Remaining Cost and shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to the Estimated Remaining Cost if the County determines the Stated Amount exceeds the Estimated Remaining Cost. Notwithstanding the preceding sentence, the County shall not be required to authorize reductions in the Stated Amount more frequently than every ninety (90) days. As used in this Paragraph, "Estimated Remaining Cost" means the amount the County estimates to be the cost of completing all Improvements which are incomplete as of the time of such estimate.

County's Obligations

13. **Inspection and Certificate.** The County agrees to inspect Improvements during and at the completion of construction and, if completed in accordance with the standards and specifications for such Improvements, to certify the Improvements as being in compliance with County standards and specifications. The inspections and certifications will be conducted in accordance with standard County policies and requirements. The Subdivider grants the County, its agents, employees, officers, and contractors an easement and license to enter the Property to perform such inspections as it deems appropriate.

14. **Notice of Defect.** The County will provide timely notice to the Subdivider whenever inspection reveals that an Improvement is not constructed or completed in accordance with the standards and specifications for health or safety, and the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than five (5) days and the County may declare a default under this Agreement if not satisfied that the defect is cured after the cure period. Any cure period should be reasonable in relation to the nature of the default.

15. **Use of Proceeds.** The County will disburse funds drawn under the Letter of Credit only for the purposes of completing the Improvements in conformance with the County's requirements and specifications for the Improvements, or to correct defects in or failures of the Improvements. The Subdivider has no claim or rights under this Agreement to funds drawn under the Letter of Credit or any accrued interest earned on the funds. All funds obtained by the County pursuant to one or more draws under the Letter of Credit shall be maintained by the County in an interest bearing account or accounts until such funds, together with accrued interest thereon (the

Escrowed Funds), are disbursed by the County. The County may disperse all or portions of the Escrowed Funds as Improvements are completed and accepted by the County, or in accordance with the terms of a written construction contract between the County and a third party for the construction of Improvements. Escrowed Funds not used or held by the County for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with interest accrued thereon, shall be paid by the County to the Issuer of the Letter of Credit no later than sixty (60) days following the County's acceptance of the Improvement or its decision not to complete the Improvement using Escrowed Funds, whichever date is earlier.

16. Return of Excess Escrowed Funds. No later than sixty (60) days after its receipt of a written request from the Subdivider or the Issuer to return Excess Escrowed Funds to the Issuer, the County shall disburse to the Issuer from the Escrowed Funds all Excess Escrowed Funds. For purposes of this Paragraph, "Excess Escrowed Funds" means the amount of Escrowed Funds exceeding one hundred ten percent (110%) of the estimated cost of constructing Improvements the County intends to construct but which have not been accepted, as such cost is shown on Exhibit B. Notwithstanding the first sentence in this Paragraph, the County shall not be required to disburse Excess Escrowed Funds more frequently than every ninety (90) days.

17. Cost Participation by County. If the County and Subdivider agree the County will participate in the expense of installing any of the Improvements, the respective benefits and obligations of the parties shall be governed by the terms of a Community Facilities Construction Agreement executed by the parties thereto, and the terms of that agreement shall control to the extent of any inconsistency with this Agreement.

18. Conditions of Draw on Security. The County may draw upon any financial guarantee posted in accordance with Paragraph 11 upon the occurrence of one or more of the following events:

- (a) Subdivider's failure to construct the Improvements in accordance with Paragraph 8 of this Agreement;
- (b) Subdivider's failure to renew or replace the Letter of Credit at least forty-five (45) days prior to the expiration date of the Letter of Credit;
- (c) Subdivider's failure to replace or confirm the Letter of Credit if the Issuer fails to maintain the minimum rating acceptable to the County, in accordance with Paragraph 11 of this Agreement; or
- (d) Issuer's acquisition of the Property or a portion of the Property, through foreclosure or an assignment or conveyance in lieu of foreclosure.

The County shall provide written notice of the occurrence of one or more of the above events to the Subdivider, with a copy provided to the Issuer. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraph (a), the County shall provide notice to the Subdivider and the Issuer of the specific default and the notice shall include a statement that the County intends to perform some or all of Subdivider's obligations under Paragraph 8 for specified Improvements if the failure is not cured. The notice with respect to a default under subparagraph (a) shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit, unless, in the reasonable opinion of the County, the failure creates an immediate and substantial harm to the public health or safety, in which case the notice shall

state why the failure creates an immediate and substantial harm to the public health or safety, and shall be given no less than five (5) days before presentation of a draft on the Letter of Credit. In the event of a draw based on subparagraph (a), the County shall be entitled to draw in the amount it considers necessary to perform Subdivider's obligations under Paragraph 8, up to the amount allocated according to Exhibit B for any Improvement it states its intent to construct or complete in accordance with the standards and specifications for such improvement. The subdivider hereby grants to the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such Improvements. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraphs (b), (c), or (d), the notice shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit. In lieu of honoring a draft based on an event described in subparagraphs (b) or (c), the Issuer or the Subdivider may deliver to the County a substitute Letter of Credit if the event is described by subparagraph (b) or a substitute or confirming Letter of Credit if the event is described by subparagraph (c). If the Issuer has acquired all or a portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure, in lieu of honoring a draft based on an event described in subparagraph (d), the Issuer may deliver to the County a substitute or confirming Letter of Credit.

19. **Procedures for Drawing on the Letter of Credit.** The County may draw upon the Letter of Credit in accordance with Paragraph 18 by submitting a draft to the Issuer in compliance with the terms of the Letter of Credit governing such draft. The Letter of Credit must be surrendered upon presentation of any draft which exhausts the Stated Amount of such Letter of Credit. The County may not draft under a Letter of Credit unless it has substantially complied with all its obligations to the Issuer under this Agreement and has properly completed and executed the draft in strict accordance with the terms of the Letter of Credit.

20. **Measure of Damages.** The measure of damages for breach of this Agreement by the Subdivider is the reasonable cost of completing the Improvements in conformance with the County's requirements, procedures, and specifications. For Improvements upon which construction has not begun, the estimated cost of the Improvements shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount or the amount of the Letter of Credit establishes the maximum amount of the Subdivider's liability.

21. **Remedies.** The remedies available to the County, the Subdivider, and Issuer under this Agreement and the laws of Texas are cumulative in nature.

22. **Provisions for the Benefit of Issuer.** The provisions of Paragraphs 9, 10, 11, 12, 15, 16, 18, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, and 36 of this Agreement for the benefit of the Issuer may not be modified, released, diminished, or impaired by the parties without the prior written consent of the Issuer.

23. **Third Party Rights.** No person or entity who or which is not a party to this Agreement shall have any right of action under this Agreement, nor shall any such person or entity other than the

County (including without limitation a trustee in bankruptcy) have any interest in or claim to funds drawn on the Letter of Credit and held in escrow by the County in accordance with this Agreement. Notwithstanding the preceding sentence, the Issuer shall have a right of action to enforce any provision of this Agreement where the Issuer is specifically named as a beneficiary of such provision pursuant to Paragraph 22.

24. Indemnification. The Subdivider hereby expressly agrees to indemnify and hold the County harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the County if the County is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act of negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements, except where such suit is brought by the Subdivider. The Subdivider is not an employee or agent of the County. Notwithstanding anything to the contrary contained in this agreement, the Subdivider does not agree to indemnify and hold the County harmless from any claims, demands, costs, or liabilities arising from any act or negligence of the County, its agents, contractors, employees, tenants, or licensees.

25. No Waiver. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute continuing waiver unless expressly provided for by a written amendment to this Agreement; nor will the waiver of any default under this agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by the County, the Subdivider, or the Issuer, their heirs, successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

26. Attorney's Fees. Should either party or the Issuer, to the extent Issuer is named as specific beneficiary, be required to resort to litigation to enforce the terms of this agreement, the prevailing party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in their entirety.

27. Assignability. The benefits and burdens of this Agreement are personal obligations of the Subdivider and also are binding on the heirs, successors, and assigns of the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the express written approval of the County. The County's written approval may not be withheld if the Subdivider's assignee explicitly assumes all obligations of the Subdivider under this Agreement and has posted the required security. The County agrees to release or reduce, as appropriate, the Letter of Credit provided by the Subdivider if it accepts substitute security for all or any portion of the Improvements. The County, in its sole discretion, may assign some or all of its rights under this Agreement, and any such assignment shall be effective upon notice to the Subdivider and the

Issuer.

28. Expiration. This Agreement shall terminate upon the expiration of the approval of the proposed final plat of the Subdivision or if the Subdivision is vacated by the Subdivider.

29. Notice. Any notice required or permitted by this Agreement is effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Subdivider:
Attn: _____
Printed Name: _____
Office or Position: _____
Address: _____

if to County:
Attn: _____
Printed Name: _____
Office or Position: _____
Address: _____

if to the Issuer: _____ at Issuer's address shown on the Letter of Credit.

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of the change is provided to the other party in accordance with the provisions of this Paragraph.

30. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

31. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement or the Issuer, whether arising out of or relating to the Agreement or the Letter of Credit, will be deemed to be proper only if such action is commenced in District Court for LaSalle County, Texas, or the United States District Court for the _____ 81st District of Texas, _____ Division. The Subdivider expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal. The Issuer, by providing a Letter of Credit pursuant to the terms of this Agreement, expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal.

Description of Improvement(s)	Estimated Cost of Completion
a)	
b)	
c)	

**Appendix F: Order Adopting Building Code Standards for
Unincorporated Areas of County
Tab 9**

**APPENDIX F:
RESIDENTIAL BUILDING CODE STANDARDS
IN UNINCORPORATED AREAS
CHAPTER 233, Local Government Code**

**IN THE COMMISSIONERS COURT
OF
LaSALLE COUNTY, TEXAS**

**RESOLUTION AND ORDER APPLYING SUBCHAPTER F, CHAPTER 233,
TEXAS LOCAL GOVERNMENT CODE, TO CERTAIN RESIDENTIAL
CONSTRUCTION IN UNINCORPORATED AREAS OF LaSALLE COUNTY,
TEXAS, COMMENCED AFTER APRIL 8, 2013**

WHEREAS, the Texas Legislature has provided for certain Texas Counties to provide for the health, safety and general welfare of their residents through the application of construction standards in the unincorporated areas of counties located wholly or in part within fifty (50) miles of an international border; and

WHEREAS, LaSalle County, Texas has a population of more than 100 persons, and is experiencing the rapid influx of residential population as the result of development of oil and gas within the County; and

WHEREAS, to protect and promote the public health, safety, morals or general welfare of LaSalle County, Texas, and the safe, orderly and healthful development of the unincorporated area of LaSalle County, Texas it is

ACCORDINGLY ORDERED, ADJUDGED AND DECREED, in accord with Subchapter F, Chapter 233 of the Texas Local Government Code, that any construction of new or any addition or substantial remodel of existing single-family or duplex commenced after the effective date of this Resolution and Order, must conform to the May 1, 2008 version of the International Residential Code.

IT IS FURTHER ORDERED that three (3) required inspections shall be conducted during the construction of the project: (1) the foundation stage, before the placement of concrete; (2) the framing and mechanical systems stage, before covering with drywall or other interior wall covering; and (3) completion of construction of the residence. For remodeling of an existing residence in which the structure's square footage or value will increase by more than fifty (50%) percent, the inspection requirements must be performed as necessary based on the scope of work. The builder is responsible for contracting with (1) a licensed engineer, (2) a registered architect, (3) a professional inspector licensed by the Texas Real Estate, (4) a plumbing inspector licensed by the Texas State Board of Plumbing Inspectors, or (5) an individual certified as a residential combination inspector by the International Code Council. A builder may use the same inspector for all the required inspections, or a different inspector for each required inspection.

IT IS FURTHER ORDERED that in accordance with Subchapter F, Chapter 233 Texas Local Government Code, a builder or contractor must, prior to beginning work, provide notice to the Compliance Inspector for the County of LaSalle. A copy of such Notice is attached to this Order.

IT IS FURTHER ORDERED that in accordance with Subchapter F, Chapter 233 Texas Local Government Code, a builder or contractor must, not later than the 10th day after the date of a final inspection, a builder or contractor must provide to the Compliance Inspector for the County of LaSalle and to the owner, Notice of Compliance with this Resolution and Order, and evidence that the structure has passed inspections, as required by this Resolution and Order. A copy of such Compliance Notice is attached to this Order.

ADOPTED by a vote of 3 ayes and 1 nays on the 8th day of April, 2013.

Attest:

Margarita A. Esqueda
County Clerk

[Signature]
County Judge



FILED FOR RECORD
At _____ o'clock P M.
APR - 8 2013
Margarita A. Esqueda
MARGARITA A. ESQUEDA
COUNTY & DISTRICT CLERK
LA SALLE COUNTY, TEXAS
By _____ Deputy

LaSalle County, Texas

Notice of Residential Construction in Unincorporated Area

Builder/Contractor Information:

Name:

Address:

Phone Number:

Fax Number:

e-mail address:

Contact Person:

Project Information:

Type of Construction: [] New Residential [] Addition or Remodel

Location or address:

Lot and Block:

Subdivision:

Survey:

Tract:

Planned Date of Commencement of Work:

Residential Code Used: [] International Residential Code published May 1, 2008

[] International Residential Code applicable in Cotulla, Texas

Date Received by County Inspector:

Permit Number:

Signature:

Date:

**Application for Subdivision of Land
Tab 10**

SUBDIVISION APPLICATION FORM
LaSalle County, Texas

Please Type or Print Information

This form shall be completed by the Property Owner or Applicant and submitted to the County Judge's Office along with the required number of copies of the respective plat, review fee and all other required information.

Type of Plat Submittal: _____ Preliminary Plat _____ Final Plat _____ Replat/Amendment

Proposed Name of Subdivision: _____

Applicant/Property Owner's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: _____ Fax Number: _____

Surveyor/Engineer's Name: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: _____ Fax Number: _____

Total Acreage of Development: _____ Total Number of Lots: _____

Physical Location of Property: _____

Legal Description of Property: _____

Intended Use of Lots (*check all those that apply*) :

_____ Residential (single family) _____ Residential (multi-family) _____ Commercial/Industrial

_____ Other _____
(please specify)

Property Located Within City ETJ:

_____ Yes _____ No If Yes, Name of City: _____

Water Supply: _____ Electric Service: _____

Telephone Service: _____ Cable TV Service: _____

Sewage Disposal: _____ Gas Service: _____

Note : *The submission of plans/drawings, calculations, etc., along with this application makes such items public record, and the Applicant understands that they may be viewed and/or reproduced (copied) by the general public.*

(County Staff Use Only)

Application Received By: _____ Date Received: _____

Fee Paid (amount): \$ _____ Check #: _____ County Receipt #: _____

**Order Adopting Comprehensive Subdivision Regulations
Tab11**

**IN THE COMMISSIONERS COURT
OF
LaSALLE COUNTY, TEXAS**

**RESOLUTION AND ORDER ADOPTING COMPREHENSIVE SUBDIVISION
REGULATIONS PURSUANT TO CHAPTER 232, TEXAS LOCAL
GOVERNMENT CODE**

WHEREAS, the Texas Legislature has provided authority for Texas Counties to provide for the health, safety and general welfare of their residents through the application of subdivision regulations, and

WHEREAS, LaSalle County contains territory in the unincorporated areas of the county located wholly or in part within fifty (50) miles of an international border; and

WHEREAS, LaSalle County, Texas has a population of more than 100 persons, and is experiencing the rapid influx of residential population as the result of development of oil and gas within the County; and

WHEREAS, to protect and promote the public health, safety, morals or general welfare of LaSalle County, Texas, and the safe, orderly and healthful development of the unincorporated area of LaSalle County, Texas it is

ACCORDINGLY ORDERED, ADJUDGED AND DECREED, in accord with Chapter 232 of the Texas Local Government Code, and after fully satisfying all legal requirements, and having conducted a public hearing, the Commissioners Court of LaSalle County, Texas finds that the adoption of comprehensive subdivision regulations is in the best interests of the residents of LaSalle County, Texas.

IT IS FURTHER ORDERED that in accordance with Chapter 232.007 Texas Local Government Code, the County Commissioners Court finds that as a portion of the comprehensive subdivision regulation, Appendix A, B, C, D and E are necessary and vital portions of the comprehensive subdivision regulation, and are also adopted by this Order, specifically:

APPENDIX A-Design and Construction Specifications of LaSalle County

APPENDIX B-Typical Road Cross-Section

APPENDIX C-Survey and Infrastructure Requirements for Manufactured Home Rental Communities in LaSalle County

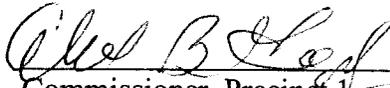
APPENDIX D-Fee Schedule.

APPENDIX E-Model Subdivision Rules pursuant to Chapter 16, Texas Water Code, restated after adoption May 25, 2001.

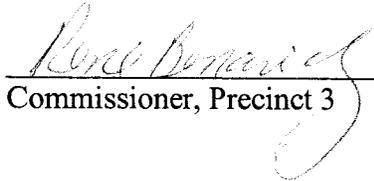
APPENDIX F-County Residential Building Code Standards in Unincorporated Areas, Chapter 233, Texas Local Government Code

If any part or provision of these regulations, or application thereof, to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The commissioners court hereby declares that it would have enacted the remainder of these regulations without any such part, provision or application.

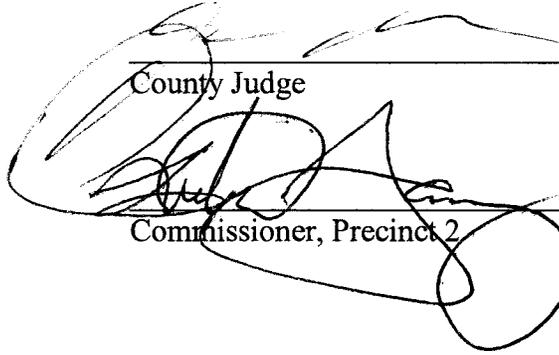
ADOPTED by a vote of 8 ayes and 0 nays on the 8th day of April, 2013.



Commissioner, Precinct 1



Commissioner, Precinct 3



County Judge

Commissioner, Precinct 2

Commissioner, Precinct 4

ATTEST:



COUNTY CLERK



FILED FOR RECORD
At _____ o'clock _____ M.
APR - 8 2013

MARGARITA A. ESQUEDA COUNTY & DISTRICT CLERK LA SALLE COUNTY, TEXAS
By _____ Deputy