

TITLE B. DIVISIONS OF LAND OUTSIDE THE CORPORATE LIMITS OF A MUNICIPALITY AND SUBJECT TO SUBCHAPTER B OF CHAPTER 232 OF THE TEXAS LOCAL GOVERNMENT CODE

CHAPTER 1 - GENERAL AND ADMINISTRATIVE PROVISIONS

1.1 Applicability; Location of Land

The rules in this title (which together with the related appendices are referred to as “these Rules”) apply to land that is subdivided into two or more lots that are intended primarily for residential use in the jurisdiction of Hidalgo County. A lot is presumed to be intended for residential use if the lot is five acres or less. For purposes of these Rules, land is considered to be in the jurisdiction of Hidalgo County if the land is located in the County and outside the corporate limits of a municipality. These Rules do not apply if the subdivision is incident to the conveyance of the land as a gift between persons related to each other within the third degree of affinity or consanguinity, as determined under Chapter 573, Government Code. A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

1.2 General Requirement; Plat Required

For any division of land subject to this title, the owner or owners thereof and their agents shall comply with the requirements of these Rules and applicable state and federal laws. In particular and without limitation, the owner of the tract of land must have a plat prepared and recorded in accordance with these Rules, Chapter 232 of the Texas Local Government Code, Chapter 12 of the Texas Property Code, and (if the land is within a municipality’s ETJ under Texas Local Government Code §§ 42.021 and 212.001) the municipality’s subdivision rules and Chapter 212 of the Texas Local Government Code.

1.3 Responsibility for Costs

The owner or owners of the land being subdivided shall be responsible for costs of improvements as required by these Rules.

1.4 Conflict of Interest under Local Govt. Code § 232.034

- A. In this section, “subdivided tract” means a tract of land, as a whole, that is subdivided into tracts or lots. The term does not mean an individual lot in a subdivided tract of land.
- B. A person has an interest in a subdivided tract if the person:
 - 1. has an equitable or legal ownership interest in the tract;
 - 2. acts as a developer of the tract;
 - 3. owns voting stock or shares of a business entity that:
 - a. has an equitable or legal ownership interest in the tract; or
 - b. acts as a developer of the tract; or
 - 4. receives in a calendar year money or any thing of value from a business entity described by subdivision 3.
- C. A person also is considered to have an interest in a subdivided tract if the person is related in the

second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under subsection B, has an interest in the tract.

- D. If a member of the Commissioners Court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.
- E. A member of the Commissioners Court of a county commits an offense if the member violates subsection D. An offense under this subsection is a Class A misdemeanor.
- F. The finding by a Court of a violation of this section does not render voidable an action of the Commissioners Court unless the measure would not have passed the Commissioners Court but for the vote of the member who violated this section.
- G. A conviction under subsection E constitutes official misconduct by the member and is grounds for removal from office.

1.5 Definitions

- A. Rules of Definition: Words used in the present tense shall include the future, words used in the singular number shall include the plural, and words used in the plural number shall include the singular.
- B. Definitions of words and terms: The following words and terms, when used in these Rules, shall have the following meanings unless the context indicates otherwise. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in governmental planning and engineering practices.

“Block” means a piece or parcel of land typically surrounded by public streets on no fewer than three (3) sides and normally containing several lots or the equivalent area.

“Building” any structure used or intended for supporting or sheltering any use or occupancy.

“Building line” or “building set-back line” means a line established, in general, parallel to the property line, between which and such property line, no part of a building shall project.

“Common Promotional Plan” means any plan or scheme of operation undertaken by a single Subdivider or a group of Subdividers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is (a) contiguous or part of the same area of land; or (b) known, designated, or advertised as a common unit or by a common name.

“Commissioners Court” or “Court” means the duly elected Commissioners Court of Hidalgo County, Texas, acting in its official capacity.

“Corner Lot” means a lot, which is located adjacent to, or abutting, two intersecting streets, roads or highways.

“County Engineer” means an Engineer who has been appointed, employed or retained by the Commissioners Court to be responsible for all engineering matters concerning compliance of proposed subdivisions with these Rules. In the absence of the County Engineer, the Hidalgo County Subdivision Advisory Board or another entity or person duly appointed by Commissioners Court shall have the authority to act in place of the County Engineer insofar as these Rules are concerned.

“County Planning Department” or “Planning Department” means the department established by the Court for the purpose of reviewing compliance with these Rules.

“Drainage Easement” means an interest in land granted to the public generally, to a political subdivision of the state and/or to an individual land owner, for installing or maintaining drainage ditches, pipelines, box structures or other facilities for the conveyance of storm or runoff water across, over, or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said facilities.

“Easement” means an interest in land granted to the County, to the public generally, and/or to a utility corporation for a specific purpose or purposes over, across, or under private land, together with the right to enter thereon with vehicles and machinery necessary for the maintenance of said interest. Unless an easement is dedicated and accepted in writing, the County shall not be obligated to maintain it.

“Engineer” means a person duly authorized under the provisions of the Texas Engineering Practice Act (Revised Civil Statutes art. 3271a) to practice engineering, or a firm employing such persons and practicing engineering in compliance with the Texas Engineering Practice Act.

“ETJ” means extraterritorial jurisdiction (see below).

“Extraterritorial jurisdiction” means the land area surrounding a municipality’s corporate limits as determined, depending upon the context, by Texas Local Government Code § 42.021 (for a distance that increases with a municipality’s population) or § 212.001 (for a distance of five miles for a municipality with population by decennial census of 5,000 or more).

“Final plat” means a map or drawing showing the proposed subdivision and any accompanying material prepared as described in these Rules and state law.

“Flood Insurance Rate Map” means an official map or plat showing boundaries of flood zones published by FEMA (the Federal Emergency Management Agency) for the National Flood Insurance Program.

“Floodplain” means any area in the 100-year floodplain that is susceptible to being inundated by water from any source or that is identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 through 4127).

“Hidalgo County Subdivision Advisory Board” or “Subdivision Advisory Board” means the group of persons chosen by the Commissioners Court with responsibilities to review proposed subdivisions as set out in these Rules.

“Irrigation easement” means an interest in land granted to the public generally, to a political subdivision of the state and/or to an individual land owner, for installing or maintaining irrigation ditches, canals, pipelines, and structures across, over, or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said irrigation facilities.

“Lease” includes an offer to lease.

“Lot” means a parcel into which land that is intended for residential use is divided.

“Lot depth” means the length of a line connecting the mid-points of the front and rear lot lines, which line shall usually be at right angles to the front lot line or radial to a curved lot line.

“Lot width” means the length of a line (drawn perpendicular to the lot depth line) connecting the side lot lines at the building setback line or at a point no farther than 35 feet from the front lot line if the length at such point is greater.

“Minimum state standards” means the minimum standards set out for:

- (A) adequate drinking water by or under Section 16.343(b)(1), Water Code;
- (B) adequate sewer facilities by or under Section 16.343(c)(1), Water Code; or
- (C) the treatment, disposal, and management of solid waste by or under Chapter 361 and 364, Texas Health and Safety Code.

“Monument” means a concrete monument, an iron rod, an iron pipe or other such evidence used to mark the boundaries of subdivisions and lot or block corners.

“100-Year Flood” - Means a flood of such magnitude as may reasonably be expected to be equaled or exceeded on an average of once every 100 years; the term also means that level of flooding having a one (1) percent probability of occurrence in any year.

“Pavement width” means the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the faces of the curbs.

“Person” means an individual, firm, corporation, or other legal entity.

“Preliminary plat” means the drawing or map and accompanying documents prepared in accordance

with these Rules in which the plan for a subdivision is initially presented by the Subdivider to the County.

“Plat” means **“final plat”** as defined above. A re-plat or re-subdivision is considered a plat.

“Private Street” means a vehicular access way under private ownership and maintenance providing access to buildings containing residential dwelling units or any park located more than 300 feet from an approved public street right-of-way. A private street shall also include any vehicular access to three or more residential units. Parking lots and private driveways within shopping centers, institutions, commercial areas, and industrial developments will not be considered as private streets.

“Public Street” means an area, parcel, or strip of land, which provides primary vehicular access to adjacent property, or land and provides general community vehicular circulation (whether designed as a street, highway, freeway, thoroughfare, avenue, lane, boulevard, road, place, drive, or however otherwise designated) and which is dedicated or granted for public purposes.

“Residential use” includes single-family residential uses; two-family uses; and multi-family residential apartment or townhouse uses.

“Right-of-way” or “ROW” means the area within the outermost boundaries of a street or road, including the area for a constructed watercourse or drainage ditch.

“Sell” includes an offer to sell.

“Sewer,” “sewer services,” or “sewer facilities” means treatment works as defined by Section 17.001, Water code, or individual, on-site, or cluster treatment systems such as septic tanks and includes drainage facilities and other improvements for proper functioning of septic tank systems.

“Shall” is mandatory and **“may”** is permissive.

“Street” means a ROW, however designated, which provides primary vehicular access to adjacent land. See also **“Public Street”** defined above and the classifications of streets in section 2.2 of these Rules.

“Subdivide” means to divide the surface area of land into lots intended primarily for residential use.

“Subdivider” means an individual, firm, corporation, or other legal entity that owns any interest in land and that directly or indirectly subdivides land into lots as part of a common promotional plan in the ordinary course of business.

“Subdivision” means an area of land that has been subdivided into lots for sale or lease.

“Surveyor” means a licensed state land surveyor or a registered professional land surveyor, as authorized by the Texas Professional Land Surveying Practices Act (Revised Civil Statutes art. 5282c) to practice the profession of surveying.

“Utility” means a person, including a legal entity or political subdivision, which provides the services of:

- (A) an electric utility, as defined by Section 31.002, Texas Utilities Code;

- (B) a gas utility, as defined by Section 101.003 Utilities Code; or
- (C) a water and sewer utility, as defined by Section 13.002, Water Code.

“Utility easement” means an interest in land granted to the public generally and/or to a private or public utility corporation or political subdivision of the state, for installing or maintaining utilities across, over, or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

CHAPTER 2- GENERAL SUBDIVISION DESIGN

2.1 General Principles

In accordance with Texas Local Government Code Chapter 232.101 the Commissioners Court has adopted the rules contained herein for governing plats and subdivisions of land within the unincorporated area of the County to promote the health, safety, morals, or general welfare of the County and the safe, orderly, and healthful development of the unincorporated area of the County.

- A. This chapter contains many general design requirements. Further specific requirements for construction of streets and drainage are contained in the Appendix.
- B. Layout. The subdivision layout shall make reasonable provisions for development of adjacent land.
- C. Name of Subdivision. Duplication of subdivision names shall be prohibited.

2.2 Classifications of Streets

Streets are classified as follows:

- A. **“Farm to Market Road”** means a road so designated by the Texas Department of Transportation. It shall have a right-of-way of not less than 120 feet.
- B. **“Main-Arterial Street”** means a public street, which provides for the major vehicular circulation, or cross-towns, loops, by-pass, or radial routes of the region, county, or city. Such a street is typically over 5 miles in length. It shall have a right-of-way width of not less than 50 feet or more than 100 feet and a pavement width of not less than 32 feet or more than 56 feet.
- C. **“Collector Street”** means a public street, which provides for expeditious movement of vehicular traffic within a neighborhood, collecting traffic from minor streets and connecting to other major streets. Such a street is typically 2 to 5 miles in length. It shall have a right-of-way width of not less than 50 feet or more than 100 feet and a pavement width of not less than 32 feet or more than 56 feet.
- D. **“Minor Street”** means a street which is used primarily for access and circulation to abutting residential properties and which is intended to serve traffic within a limited area. Such a street is typically less than 2 miles in length. It shall have a right-of-way width of not less than 40 feet or more than 70 feet and a shoulder-to-shoulder width of not less than 25 feet or more than 35 feet.
- E. **“Alley”** means a minor public right-of-way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a “public street” as that term is defined herein.
- F. **“Cul-de-sac”** means a short public street having but one opening or access to another public street and terminating in a vehicular turn-around.

- G. **“Dead-end street”** means that portion of a public street, which initially has only one opening or access to another public street but which will be extended at a later date.

2.3 Non-applicability to Various Driveways and Parking Lots

Notwithstanding the foregoing classifications, the following shall not be considered to be within the purview of these Rules:

- A. Any driveway designed or used principally to provide vehicular access to the outbuildings appurtenant to any principal building, or to provide vehicular access to a delivery platform or an entrance of a building appropriate for the delivery thereto of goods or merchandise, and located wholly on private property.
- B. An area appurtenant to a store or a group of stores, a theater, a church, or any similar establishment, designed or used primarily for a vehicular parking lot or vehicular parking facilities by customers, patrons, or employees of the establishment or group of establishments in question.
- C. An entrance or roadway designed or used to provide either vehicular entrance to or communication or passage between the several units of a single industrial or commercial establishment or group of such establishments which are under common control or management; provided such industrial or commercial entranceway or roadway shall be considered a public street under the terms of these regulations if it has entrances upon two or more public streets unless there are at each of such entrances gates, chains, or watchmen by which all persons are prevented from using the same except those employed by or having business to conduct at such industrial or commercial establishment in question.
- D. An entrance or driveway designed or used to provide principal or primary vehicular access to any apartment building or a group of apartment buildings designed for multi-family occupancy and under one ownership. Such entrance or driveway shall not be used to provide public access to adjacent areas.

2.4 Street and Alley Layout

- A. **General** - The street pattern of a neighborhood shall provide adequate circulation within the subdivision and yet discourage excessive through traffic on minor or local streets. The arrangement, character, extent, width, grade, and locations of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and to the proposed uses of the land to be served by such streets. If any portion of a collector or main arterial street traverses any part of the land being subdivided, that portion of the main or collector street, as planned at the proposed right-of-way width, shall be incorporated in the subdivision plat and shall be dedicated to the appropriate government. The street layout shall be devised for the most advantageous development of the entire neighborhood and shall conform to connecting streets in land adjacent to the new subdivision. Provisions shall be made within the subdivision to provide street access to adjacent undeveloped acreage in such a way as to assure adequate circulation for future development. Dead-end streets and those which do not conform to adjacent established streets are to be avoided whenever possible. Dead end streets shall be

terminated with a temporary cul-de-sac easement, which will be automatically abandoned upon the extension of a street into adjacent properties. Where a subdivision abuts or contains an existing or proposed Major Street, reverse frontage lots may be appropriate. When reverse frontage lots are designated, access shall be denied to the major street, and screen planting or a screening device shall be provided along the rear property line abutting such existing or proposed major streets. Paved alleys shall be provided in commercial and industrial developments, except where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with an adequate plan for the uses proposed. The street system layout shall be so designed, insofar as practicable, to preserve natural features such as trees, brooks, hilltops, and scenic views and other such features. There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use. The street system layout shall provide for the acceptable disposal of storm water, and provision shall be made by the Subdivider to handle storm water to comply with provisions elsewhere in these regulations and other regulations of the County.

B. Minimum Right-of-Way Width Requirements including streets in commercial and industrial subdivisions:

- Farm to Market Road - 120 feet,
- Main Arterial Streets - not less than 100 feet;
- Collector Streets - not less than 80 feet;
- Minor Streets - not less than 50 feet,

In any event The Hidalgo County Thoroughfare Plan shall govern all right-of-way widths as identified in said plan.

Where proposed streets are extensions of existing or planned streets, having a right-of-way width greater than that specified herein, the proposed streets shall be the same width as the existing or planned streets. Where the proposed subdivision abuts upon an existing street that does not conform to these width requirements, the Subdivider shall dedicate right-of-way sufficient to provide for the full right-of-way width. Alleys are not permitted, unless required by a municipality-exercising jurisdiction over the subdivision within its ETJ. Where required by a municipality, Alleys shall conform to the municipality's requirements.

C. Curves - The minimum centerline radius on curves shall be 2,000 feet for a Main Arterial, 800 feet for a Collector, and 100 feet for a Minor street. The minimum tangent distance between reverse curves shall be 100 feet.

D. Offsets - Street centerlines, if offset, must be offset a minimum distance of 125 feet on centerline. Offset distances shall be indicated on the final plat.

E. Intersections:

1. All streets and alleys are to intersect at a 90-degree angle with departures of more than 20 degrees subject to approval through the variance procedure upon evidence of good cause such as topography. Corners are to be rounded or have a corner clip or radii as shown below:
 - a. Farm to Market - 50' tangent clip

- b. Main Arterial - 50' tangent clip
 - c. Collector - 25' tangent clip or radii
 - d. Minor - 25' external tangent clip or radii, or 15' internal tangent clip or radii, as applicable.
2. Acute angle intersections, as may be approved, are to have 30-foot additional radii at acute corners.
 3. Street or alley intersections with or extending to meet an existing street or alley will be tied to the existing street or alley on centerline, with dimensions and bearings to show the relationship.

F. Cul-De-Sac Streets

1. Turn-arounds are to have a minimum right-of-way radius of fifty feet (50') for single family use where curbed and guttered; a radius of sixty feet (60') for single family use where a rural section is utilized; and a one hundred feet (100') radius for apartment, commercial, or other uses.
2. Maximum length of cul-de-sac streets shall be 660 feet as measured from the centerline of intersection to cul-de-sac radius point. A cross street may be required where the proposed internal street exceeds the maximum length allowed of cul-de-sac street. A cross street shall not be required where the adjacent property has been developed without a viable connection to the proposed extension.
3. Temporary turn-arounds, conforming to the minimum radii requirements, are to be used where improvements are not installed at the end of a street, which will be extended in the future. The following note shall be provided on the final plat when a temporary turn-around is used: "Cross-hatched area is temporary easement for turn-around until street is extended (direction) in a recorded plat.

- G. Street Names** - The names of proposed streets shall conform to the names of existing street of which they may be or become extensions, and shall not duplicate or conflict with the recognized name of any other street located in the area subject to these regulations.

The Subdivider shall provide street signs and posts as per County standards, and traffic control signs as may be required by the County.

2.5 Street and Paving Standards

Streets shall be designed and constructed in accordance with the requirements in **Appendix 5**. Where further guidance for construction specifications is needed, the County Planning Department may require construction in accordance with the Standard Specifications for Construction of Highways, Streets and Bridges, (latest edition), as published by the Texas Department of Transportation, or other appropriate standards.

2.6 Drainage Standards

Drainage shall be designed in accordance with the requirements in these Rules, the Hidalgo County Master Drainage Plan (a copy of which is available from Hidalgo County Drainage District No. 1) and, if the subdivision is located within its boundaries of Hidalgo County Drainage District No. 1 or contemplates the use of such district's facilities for drainage, approved by Hidalgo County Drainage District No. 1. Appendix 5 contains detailed requirements for drainage design. Where further guidance for construction specifications is needed, the County Planning Department and/or Hidalgo County Drainage District No. 1 may require construction in accordance with appropriate standards.

2.7 Easements for Utilities and Irrigation Facilities

- A. When not located in an alley having a width of 20 feet or more, the location and width of necessary utility easements shall be determined by the public and private utility companies and shall connect with easements established in adjoining properties. Easements shall not be less than 15 feet in width. A written confirmation shall be required from all public and private utility companies that will occupy the easement to reduce an easement width less than the minimum required width. An easement located between abutting lots may be reduced to 10 feet.
- B. There also shall be shown on the plat and dedicated for utilities unobstructed aerial easements and guy wire easements as may be required for overhead facilities.
- C. Easements as set forth in any applicable County or regional plan for the location of future sewerage or utility facilities shall be provided and indicated upon the plat.
- D. In rural areas where the future utility needs have not yet been established, easements will be dedicated along all rear lot lines and along side lot lines as deemed necessary.

The location and width of necessary irrigation easements shall be determined by the irrigation or water control and improvement district, or private property owner holding the dominant estate and shall connect with the easements established in adjoining properties. Easements shall not be less than 15 feet in width. Easement widths for irrigation lines may be reduced with the written consent of the Irrigation District utilizing said easement.

- F. See the Appendix for further specifications regarding location and construction of utilities.

2.8 Blocks and Lots

- A. Block Length - The minimum and maximum block length are 300' and 1,300' respectively, as measured along the center of the block or street.
- B. Lots - In general, the lot design shall provide for lots of adequate width, depth, and shape to provide open area, to eliminate over-crowding, and to be appropriate for the location of the subdivision and for the type of development and use contemplated. Lots shall have the side lot lines at right angles to the streets on which the lot faces, or radial to curved street lines. In Subdivisions that are to be serviced by an organized sewerage facility, the minimum lot width for residential use shall be: 50 feet for lots measured at 90 degrees from the property line, 35 feet what length or chord for cul-de-sac lots, and 60 feet for corner lots. In Subdivisions that are to be serviced by a "septic tank" or other on-site sewage facilities (OSSF) system and are half (1/2) acre in size, the minimum lot width for residential use lots shall be 50 feet for lots measured at 90 degrees from the property line, 40 feet chord length or chord for cul-de-sac lots, and 60 feet for corner lots. Lots that are greater than half (1/2) acre in size the minimum lot width for residential use lots shall be 65 feet for lots measured at 90 degrees from the property line, 40 feet chord length or chord for cul-de-sac lots, and 70 feet for corner lots. Lots fronting a one hundred foot (100) public right-of-way or greater, whether the right of way is proposed or existing, shall have a minimum lot width of one hundred (100) feet. Shared driveways may be utilized to reduce the minimum required width on lots fronting a one hundred foot (100) public right-of-way or greater, whether the right of way is proposed or existing, from one hundred (100) feet to seventy (70) feet. Where shared driveway will be utilized, a note shall be placed on the plat designating which lots will use shared driveways and said shared driveways shall be constructed prior to final approval in accordance with these rules. In accordance with Texas Administrative Code Title 30, Part 1, Chapter 285, Subchapter A Rule §285.4, Texas Commission on Environmental Quality State Health Minimum Standards, all "one single family detached dwelling" lots that are served by a public water supply and using an individual OSSF systems for sewage disposal shall have lots of at least half (1/2) acre in size (21,780 square feet). Any "one single family detached dwelling" lot NOT being served by a public water supply and using individual OSSF system for sewage disposal shall have lots of at least one (1) acre in size (43,560 square feet). Multi-family and commercial lots utilizing OSSF system for sewage disposal shall at a minimum be at least half (1/2) acre in size (21,780 square feet) and have adequate area to accommodate OSSF systems, parking lot requirements, and on-site drainage detention systems as set forth in the appendix of these rules. Multi-family and commercial lots NOT utilizing OSSF systems for sewage disposal shall have adequate area to accommodate parking lot requirements and on-site drainage detention systems as set forth in the appendix of these rules.

2.9 Septic Tanks

A preliminary conference with the County Health Department is highly recommended to determine the suitability of an area for development using septic tanks for sewage disposal.

If a residential subdivision is not to be served by a public sanitary sewer system, and septic tanks or other on-site sewage facilities ("OSSF") are to be used, lot sizes shall be adequate to accommodate the size of drain field as necessary, because of soil type, to effectively absorb the effluent without creating a health hazard or nuisance. The rules, requirements, and procedures adopted by the Hidalgo County Commissioners Court on February 8, 1999, or in the most recently adopted OSSF order shall apply to all of the area of Hidalgo County except for the areas within boundaries of any municipality in Hidalgo County. In no event shall applicable state laws, regulations as may be established by separate regulation, or the orders of the Texas Commission on Environmental Quality be violated. Septic tanks are restricted in all Floodplain Hazard Areas within the County and may be prohibited in certain other areas as may be determined by the Commissioners Court upon the recommendation of the County Health Department.

2.10 Survey Monuments

Monuments shall be permanent in nature and suitable for the purpose intended. Concrete monuments shall be provided at subdivision corners with x, y, and z coordinates in accordance with the latest adopted and accepted County datum, and each lot and block corner shall be marked by not less than a 1/2" diameter by 24" long reinforcing rod set at or below the existing ground level. At least two concrete monuments shall be located at readily accessible sites within each subdivision. Monuments shall be set by or under the supervision of a surveyor prior to presentation of the Final Plat.

2.11 Benchmark Monuments

Monuments shall be permanent in nature as established by the Texas State Board of Land Surveying and suitable for the purpose intended. One (1) Concrete benchmark monument is required for up to 10 acres of development. For developments of 10 acres or greater, a minimum of two (2) monuments shall be set throughout the subdivision and the Planning Department shall have the discretion to require the amount needed for each proposed development. Location of each monument shall be the responsibility of the Surveyor. Each benchmark with datum in accordance with the latest adopted and accepted County datum shall be described and labeled on the face of the plat.

CHAPTER 3 - STANDARD SUBMITTAL & REVIEW PROCEDURES

3.0 Timely Approval of Plats

These Rules and the applicable appendices shall constitute a written list of the documentation and other information that must be submitted with a plat application. An application submitted to the Planning Department that contains the documents and other information required in these Rules and the applicable appendices is considered complete.

If a person submits a plat application to the Planning Department that does not include all of the documentation or other information required by Subsection A, the Planning Department shall, no later than the tenth (10th) business day after the date the Planning Department receives the application, notify the applicant of the missing documents or other information. No further action will be taken on the application until all documentation or other information contained in the notice is submitted to the Planning Department.

Acceptance by the Planning Department of a complete plat application shall not be construed as approval of the application or the information or documentation contained therein.

Except as provided by Subsection F of this section, the Commissioners Court shall take final action on a preliminary or final plat application, including the resolution of all appeals, not later than the sixtieth (60th) day after the date a completed plat application is received by the Planning Department.

If the Commissioners Court disapprove a plat application, the applicant shall be given a complete written list of the reasons for the disapproval within ten (10) business days of the date of disapproval.

The sixty- day (60) period under Subsection D:

May be extended for a reasonable period, if agreed to in writing by the applicant and approved by the Advisory Board;

May be extended up to sixty (60) additional days by the Advisory Board if Chapter 2007, Texas Government Code, requires the County to perform a takings compact assessment in connection with a plat application; and

Applies only to a decision wholly within the control of the Commissioners Court.

The Advisory Board shall make the determination under Subsection F.(2) regarding extension of the sixty (60) day period not later than the twentieth (20th) day after the date a completed plat application is received by the Planning Department.

The County may not compel a application to waive the time limits contained in this Section.

If the Commissioners Court fails to take final action on a complete plat application as required by Subsection D:

The Commissioners Court shall direct the County Treasurer to refund to the applicant the greater of the unexpended portion of any plat application fee or deposit or fifty percent (50%) of the plat application fee or deposit that has been paid:

The plat application is granted by operation law; and

The applicant may apply to a district court with civil jurisdiction in the county for a writ of mandamus to compel the Commissioners Court to issue documents recognizing the approval of the plat.

This Section A.3.0 applies only to applications for preliminary or final plat approval received by the Planning Department on or after October 1, 1999.

3.1 General Procedure

The general procedure ultimately leading to the recording of a subdivision plat is the following sequence of steps:

- A. Preliminary conference with Planning Department, Right of Way Department, Health Department, and Hidalgo County Drainage District No. 1 (optional but highly recommended).
- B. Submission, review, and approval of preliminary/final plat (with concurrent consideration of variance request or requests). Plats will be reviewed by staff and presented to Advisory Board for approval or disapproval. If the plat is approved with conditions then all conditions shall be met prior to the plat being presented for Final Approval. If the Plat is approved as Final, then the Plat will be submitted to Commissioners Court for Final approval. No conditional approval shall be granted on Final Plats. Final plats will not be placed on the Subdivision Advisory Board agenda unless all items have been addressed from staff and approval from the City has been given, if required (ETJ plats).
- C. Submission, review, and approval of preliminary plat (with concurrent consideration of variance request or requests).
- D. Modification of preliminary plat and fulfillment of any conditions of preliminary plat approval.
- E. Submission, review, and approval of final plat (with concurrent consideration of variance request or requests).
- F. Posting of bonds or other financial guarantees.
- G. Release of final plat for recording.
- H. Recording of final plat in the map records of Hidalgo County

3.2 Preliminary conference

The owner and/or the owner's engineer is strongly urged to meet with the County Planning Department to discuss any proposed subdivision or development. In this manner certain concerns and requirements can be addressed prior to expending time and money on property, which cannot be developed in compliance with these rules or, for which it is uneconomical to do so. A preliminary conference is not required, and any agreement reached with staff personnel is not binding upon the Commissioners Court.

3.3 Application for Plat Approval and Log of Items Submitted

The application for approval of a plat shall be filed in the County Planning Department by the record owner of the property to be subdivided or the owner's duly authorized agent on a form to be provided by the Planning Department. The application shall have attached a copy of the deed or deeds showing the ownership of the land. If the application is submitted by the owner's agent, then the agent shall submit such information as is necessary to verify that the agent has the authority to submit for and bind the owner by his actions.

The Planning Department shall keep a log in the form attached as Appendix 6 or on a form as developed by the County Planning Department that identifies, for each document submitted during the process of seeking subdivision approval, a sequential log number, and a description of the document, the date received, and the initials of the person making the log entry. The log number shall be written upon the document and the information shall be entered upon the log promptly after the document is received by the Planning Department.

3.4 Preliminary Plat Processing

- A. The Hidalgo County Health Department and the Hidalgo County Drainage District No. 1 shall have reviewed the preliminary plat prior to submission of the application for approval. The County Planning Department will review preliminary plats as submitted for completeness within ten (10) business days following filing of the plat application. If the submission is substantially complete and a recommendation can be made to the Subdivision Advisory Board and Commissioners Court based on the information contained therein, the preliminary plat will be put on the desired agenda date for action by the Subdivision Advisory Board and Commissioners Court. If the submission is not substantially complete or is not complete enough to secure the recommendation of the County Planning Department, then a correspondence detailing the required additional information will be sent to the Subdivider within ten (10) business days following the filing of the plat application. Once the requested information is provided, the preliminary plat will be processed in the same manner as an original submission, and this procedure shall continue until such time as a recommendation can be made to the Subdivision Advisory Board and Commissioners Court for its consideration. A plat located within the Extra Territorial Jurisdiction of a Municipality shall first receive approval from the City prior to the County considering the plat for preliminary or final approval.
- B. Preliminary plats may be approved as submitted, approved conditionally, or disapproved. If approved conditionally or disapproved, the reasons for such conditional approval or disapproval shall be stated in a letter from the County Planning Department to the Subdivider or his agent of record.

- C. The approval of a preliminary plat shall be good for a period of twelve (12) months from the date of Commissioners Court action. If eleven months after approval the County has not received information which would necessitate revision of a preliminary plat, then upon written application by the owner before the end of the twelve month period, the County Commissioners Court may extend the approval for an additional period of six (6) months.
- D. Preliminary plats which expire due to inactivity within the twelve (12) or six (6) month period noted above shall be required to be resubmitted as any new subdivision.

3.5 Preliminary Plat Submission Requirements

- A. Form. The preliminary plat shall be drawn to a minimum scale of 1" = 100'. Acceptable scales for a subdivision plat are 1" = 10', 1" = 20', 1" = 30", 1" = 40', 1" = 50', and 1" = 60'. The preliminary plat shall be drawn on sheets twenty-four inches (24") wide and thirty-six inches (36") long, with a binding margin of not less than two inches (2") on the left side of the sheet and margins on the other three sides of not less than one-half inch (1/2"). A 3" x 5" area on each page, within the margins and preferably in the lower right-hand corner, shall be enclosed by a heavy line and be left blank in order to allow space for officials to note approvals or other actions on the plat. Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.

The use of sticky backs, press on lettering, or transfer lettering which may lift, separate, or be removed from the original plat over a period of time shall not be accepted. Sepias or other diazo process reproducibles, which may fade, are also not acceptable.

- B. Coverage. The preliminary plat shall include topographic information on all land within five hundred feet (500') of the proposed subdivision.
- C. Quantity. The owner must submit two 24" x 36" copies and one 11"x17" reduction, an approved drainage report by HCDD No. 1, and a memorandum of approval from the Right of Way Department and the Department overseeing the On-Site Sewage Facilities Program (OSSF) indicating the soil is adequate for OSSF use. Comments will be provided based on the aforementioned submittals. No review will be conducted until the aforementioned items are received by the Planning Department. Comment sheets will be returned to the owner or authorized representative identifying any information lacking on the proposed plats. The owner or authorized agent shall submit one 24" x 36" copy and one 11" x 17" reduction addressing the comments provided by County staff. Once it is determined that comments have been addressed, the owner or authorized agent shall submit 16 11" x 17" copies of the complete set of the preliminary plat and its supporting information.
- D. Required Supporting Information. The following information shall be provided with or upon the preliminary plat. Proposed topographic and utility details may be shown on the preliminary plat or on a separate plat for clarity. All work by an engineer or a surveyor must be signed, sealed, and dated.
 - 1. Legal description. The legal description of the land to be subdivided shall be sufficient for the requirements of title examination.

2. Statement of conformance or list of variances. The statement shall declare that the preliminary plat (including its supporting information) conforms to these Rules (including the associated Appendices) or shall list the instances in which it does not comply with these Rules, the reason for each such non-compliance, and whether a variance is requested.
3. Location map. A location map or sketch at a scale of not more than 4000 feet to one inch shall show the proposed subdivision, existing adjacent subdivisions, school district lines, and state and county roads in the vicinity.
4. Vicinity map. A vicinity sketch or map at approximately 1" to 400' scale shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities, tracts of acreage in the vicinity, the general drainage plan and ultimate destination of water, and possible storm sewer, water, gas, electric, and sanitary sewer connections by arrows.
5. Location with respect to any municipal ETJ line. A statement of the whether any part of the proposed subdivision lies within any extraterritorial jurisdiction of a municipality (under Texas Local Govt. Code § 42.021 or 212.001) shall be provided. If an ETJ line traverses the subdivision, it shall be delineated and identified upon the preliminary plat. Label the Precinct in which the proposed Subdivision is located.
6. Map of earlier plat. If the subdivision is part of a previously filed subdivision plat, a map shall be provided showing the portion of the earlier-filed plat that is owned by the Subdivider and included in the preliminary plat.
7. Restrictive covenant. Any restrictive covenants proposed to be imposed for the subdivision should be attached for reference. It should be noted whether these are existing or proposed and if proposed, at what time they would be recorded, prior to or subsequent to the recording of the final plat.
8. Certification by the owner of conformance or submittal for review. The owner shall certify:
 - a. That the preliminary plat has been reviewed by and conforms to the requirements of the school district, the gas, electricity, water, telephone, and television cable companies, irrigation or water control and improvement districts and the U.S. Post Office; or,
 - b. that the agencies mentioned in the preceding paragraph were given at least ten (10) working days to review the proposed preliminary plat.

This certification shall be in letterform and shall include the name, title, address, and telephone number of the person to whom the Subdivider delivered the preliminary plat for review.

E. The preliminary plat shall:

1. include the name, address, and telephone number of the record owner(s) of lands being subdivided, and of the engineer, the surveyor, and any other persons responsible for the preparation of the data and information being submitted.

2. include the subdivision name, which shall not duplicate the spelling or the pronunciation of any existing subdivision in the County.
3. delineate the boundary of the subdivision by metes and bounds sufficiently for the requirements of title examination. Subdivision boundaries shall be indicated by a heavy line at least 1/16 inch wide. The total acreage in the subdivision shall be noted.
4. locate the subdivision with respect to an original corner of an original survey of which it is a part.
5. show the primary control points or description used to establish the subdivision. The description, location, and tie to such control points, including all dimensions, angles, bearings, block numbers, and summary data, shall be noted.
6. note the existing conditions within or immediately adjacent to the subdivision, including the:
 - a. location, dimension, name, and description of each existing or recorded street, alley, reservation, easement, or other public rights-of-way or visible private encumbrance upon the land within or adjacent to the subdivision, intersecting or contiguous with its boundaries, or forming such boundaries. Include the name of the subdivisions in which a street, alley, etc., is located.
 - b. location, dimension, description, and flow line of any existing watercourses, drainage structures, or irrigation structures within the subdivision or within one hundred and fifty feet (150') of the boundary of the subdivision.
 - c. location, dimension, description, and name of all existing or recorded lots and blocks, parks, public areas, or permanent structures within the subdivision or contiguous with the subdivision.
 - d. location, dimension, grade, description, and name of all existing water, sewer, electric, gas, telephone, television cable, irrigation or other utilities.
7. show the adjoining property owner's names and references to the deeds under which they hold ownership, or if the adjoining property is within a recorded subdivision, state the subdivision's name and provide the reference for where its plat is recorded in the Map Records of Hidalgo County.
8. note the date of preparation, date of survey, the scale of the plat, and the North arrow.
9. Include topographic information, including contour lines for every one vertical foot. The information shall include the flow lines of existing gutters and drainage ways. It shall be sufficiently detailed to determine the existing drainage to and from the proposed subdivision and to determine the adequacy of the proposed drainage plan. Elevations shall be based on published U.S.C. & G.S. datum and/or the latest adopted and accepted County datum and the benchmark used shall be noted on the plat. The location of the required benchmarks shall be determined by Plat Engineer and approved by the Planning Department. The Planning Department as deems

necessary may require additional benchmarks on the plat to provide a closer spacing between benchmarks.

10. Show the proposed general plan for storm water drainage in sufficient detail to indicate the location of drainage ditches or structures and the direction of flow.
11. show the approximate location, dimensions, and description of all proposed street rights-of-way, alleys, drainage structures, parks, squares, other public areas, reservations, easements, other rights-of-way, blocks, lots (lettered or numbered consecutively), permanent survey monuments, and other sites within the subdivision. The proposed width of each proposed street shall be measured at right angles, or radially where curved.
12. name the proposed streets. The name of a proposed street shall conform to the name of an existing street of which it may become an extension of or is in alignment with but otherwise shall not duplicate or conflict with the recognized name of any other street located in the area subject to these Rules.
13. show building setback lines, as follows, on all lot lines or label them on the plat:
 - (a) **FRONT SETBACK:** Building shall be setback a minimum of one half ($\frac{1}{2}$) of the width of the Street right-of-way which it faces, but not to exceed 50 feet if the street is a Farm-to Market Road or Main Arterial Street, or 25 feet if the street is a collector or minor street.
 - (b) **SIDE SETBACK:** Building shall be setback a minimum of six (6) feet from side property lines.
 - (c) **REAR SETBACK:** Building shall be setback a minimum of fifteen (15) feet from rear property lines.
 - (d) **CORNER SETBACK:** Building shall be setback a minimum of ten (10) feet from the side property line on Corner Lots adjacent to internal residential streets
 - (e) **GARAGE/CARPORT SETBACKS:** Building shall be setback a minimum of eighteen feet (18') from the side property line on corner lots accessing a minor residential street. Front entry garages shall be setback a minimum of eighteen feet (18') from the front building setback.
 - (f) **SETBACKS FOR STRUCTURES LOCATED ON VARIOUS DESIGNATED ROADS AS PER THE COUNTY THOROUGHFARE PLAN:** Building shall be setback as follows:

<u>Road Designation</u>	<u>Front</u>	<u>Corner Side</u>
Main Arterial	40'	20'
State Highway/FM Road	50'	20'

- (g) **CUL-DE-SAC LOT FRONT SETBACK:** Except for garages, Structures shall be setback a minimum of fifteen feet (15') from the front property line.

Note: If the setback lines conflict with the lines adopted by the Municipality, the Municipality set-back lines prevail if they are in the extraterritorial jurisdiction of the Municipality.

14. Show the gross area contained within each lot or tract to the nearest one-tenth (1/10) of an acre.
15. Show the limits of any flood hazard areas and the proposed finish floor elevation of any building within these flood hazard areas. Each finish floor elevation documented within these flood hazard areas shall reference a U.S.G.S. datum and/or the latest adopted and accepted County datum and shall identify the elevation in inches required to elevate the structure to the proposed finish floor elevation. This information may be provided on the lots or in a table format on the face of the plat. The Engineer shall use the top of curb or centerline of street where no curb and gutter is proposed as a reference point when stating the height the structure will be raised to meet minimum flood plain regulations. In cases where the lot is larger than average the Engineer may use the natural ground elevation where the structure will be located as a reference point when stating the height the structure will be raised to meet minimum flood plain regulations.
16. Note minimum floor elevations on each Lot, depicting the minimum finished habitable floor elevation which shall be not less than eighteen (18") inches above the center line of the Street the Lot faces or eighteen (18") inches above natural ground, whichever is greater, unless otherwise noted by the Engineer of record and approved by the County in accordance with local drainage patterns, topography for the area, and FEMA maps & regulations. This information may be provided on the lots or in a table format on the face of the plat.

3.6 Final Plat Processing

- A. Application. The Subdivider shall sign and date an application for final plat approval on a form to be provided by the Planning Department. On the application the Subdivider shall fully describe all infrastructure (streets, drainage facilities, water facilities, wastewater facilities, etc.) that has been completed or installed or will be completed or installed (applies to plats being approved with letter of credit) to serve the subdivision as of the date of the application for final plat approval. As part of the application, the Subdivider shall also sign and list all the documents accompanying or attached to the final plat. A set of these documents shall be kept together during the review and approval process and through the recordation of the plat and the identified documents. Any substitutions or additions to the documents to be recorded shall be noted and dated on an addendum to the application form.
- B. The final plat and its accompanying data shall be reviewed by the County Planning Department, the Hidalgo County Subdivision Advisory Board and the Commissioners Court within the 60 day period following submission of the complete application. If all required information is contained within the submission and the final plat is complete in every respect, the plat shall be presented to the Subdivision Advisory Board and Commissioners Court for their approval. If the application is incomplete, the County Planning Department shall make note of such requirements in letters to the Subdivider and the engineer or surveyor of record within ten (10) business days of the date of the application.
- C. Upon submission of the requested additional information, the process of review will continue, and this process of review and resubmission shall continue until the application is complete in every

respect. The final plat shall then be placed before the Subdivision Advisory Board and Commissioners Court for approval or disapproval. No conditional approval of the final plat shall be granted.

3.7 Final Plat Submission Requirements

- A. Form. The final plat shall be drawn to a minimum scale of 1" = 100'. Acceptable scales for a subdivision plat are 1" = 10', 1" = 20', 1" = 30', 1" = 40', 1" = 50', and 1" = 60'. The final plat shall be drawn on sheets twenty-four inches (24") wide and thirty-six inches (36") long, with a binding margin of not less than two inches (2") on the left side of the sheet and margins on the other three sides of not less than one-half inch (½"). A 3" x 5" area on each page within the margins, and preferably in the lower right-hand corner, shall be enclosed by a heavy line and be left blank except for notations by officials of approvals or other actions on the plat. Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.
- B. General Content. The final plat and its accompanying information shall be complete and in conformance with the approved preliminary plat and its conditions of approval, and shall incorporate all changes, corrections, and conditions required during the preliminary plat approval process. The topography shown on the final plat shall be the post-development topography if the development has been constructed prior to recording the Plat. If a plat is being submitted for recording with a letter of credit then the topography shown on the final plat may be the existing condition. Engineer/Surveyor shall certify that all proposed construction will be in accordance with the County requirements and all changes and post-development topography will be documented on the As-Builts submitted to the Planning Department.
- C. Quantity. Fifteen 11" x 17" copies of the final plat and its required supporting information shall be submitted, along with one reproducible original of the final plat itself.
- D. Required Supporting Information. The following information shall be provided with or upon the final plat. All work by an engineer or a surveyor must be signed, sealed, and dated.
1. Statement of conformance or list of variances. The statement shall declare that the final plat (including its supporting information) conforms to these Rules (including the associated Appendices) or shall list the instances in which it does not comply with these Rules, the reason for each such non-compliance, and whether a variance is requested.
 2. Utility provider letters. Letters from utility providers, including irrigation and water control and improvement districts, other than water and sewer, shall be submitted showing that the utility has reviewed the proposed subdivision, that easements shown on the proposed plat are adequate, and that the Subdivider has made all arrangements necessary for the utility company to service the subdivision. All approvals must be dated not more than 6 months prior to the date the final plat application is received. The approval may be noted on the face of the plat in lieu of a letter being provided.
 3. Street and drainage plans. Six sets of construction plans and specifications for streets and drainage improvements and the associated construction cost estimates shall be provided. The plans and specs shall conform to these Rules (including the Appendix).

4. Water and sewage plans. Six sets of construction plans and specifications for water and sewer improvements and the associated construction cost estimates shall be provided. The plans and specs shall conform to these Rules (including the Appendix).
5. Tax certificates. Tax certificates from the school district, the county, and any other taxing district stating that all ad valorem taxes and flat rate or other assessments have been paid shall be provided.

The final plat shall:

1. be certified by a surveyor or engineer registered to practice in this state.
2. define the subdivision by metes and bounds.
3. locate the subdivision with respect to an original corner of an original survey of which it is a part.
4. describe each lot, number each lot in progression, and give the dimensions of each lot.
5. state the dimensions of and accurately describe each already existing or recorded lot, street, alley, square, park, reservation, easement, or other right-of-way or encumbrance within the land being subdivided.
6. state the dimensions of and accurately describe each lot, street, alley, square, park, or other part 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 street, alley, square, park, or other part.
7. note the type and location of all monuments and whether each was found or set.
8. include or have attached a document containing a description in English and Spanish of the water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operable.
9. have attached a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities proposed under subdivision 8 above are in compliance with the Model Rules adopted under Section 16.343, Water Code, and a certified estimate of the cost to install water and sewer service facilities.
10. identify and dedicate unobstructed aerial easements and guy wire easements as may be required for overhead utilities.
11. identify the topography of the area.
12. describe the general drainage pattern for the area and all drainage channels and structures.
13. identify and describe all easements for drainage and irrigation facilities.
14. include a certification by a surveyor or engineer registered to practice in this state describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain. If any area of the subdivision is in a floodplain, the boundaries of the floodplain and the minimum finish floor elevations shall be shown on the face of the final plat, and there shall be at least one benchmark located at a readily accessible site within the proposed subdivision. A complete description of said benchmark and its elevation relative to a recognized U.S.C. & G.S. or U.S.G.S. benchmark or the latest adopted and accepted County datum shall be placed on the face of the plat. Additionally, the required minimum finish floor elevation of structures to be constructed on the property shall be noted on the face of the final plat. The minimum floor elevations on each Lot, depicting the minimum finished habitable floor elevation which shall be not less than eighteen (18") inches above the center line of the Street the Lot faces or eighteen (18") inches above natural ground, whichever is greater, unless otherwise noted by the Engineer of record and approved by the County in accordance with local drainage patterns, topography for the area, and FEMA maps & regulations. This information may be provided on the lots or in a table format on the face of the

plat. If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the Commissioners Court shall not approve the plat unless the plat has a restrictive covenant. The restrictive covenant shall prohibit the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing qualifies for insurance under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

15. include certification that the Subdivider has complied with the requirements of Section 232.032 and that:
 - a. the water quality and connections to the lots meet, or will meet, the minimum state standards;
 - b. sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards;
 - c. electrical connections provided to the lot meet, or will meet, the minimum state standards; and
 - d. gas connections, if available, provided to the lot meet, or will meet, the minimum state standards.

(A Subdivider may meet the requirements of subsection 15.b through the use of a certificate issued by the appropriate county or state official having jurisdiction over the approval of septic systems stating that lots in the subdivision can be adequately and legally served by septic systems together with the posting of a financial guaranty under Chapter B.4 to assure the construction of such facilities prior to the property being occupied.)

16. comply with various requirements in Title M (Model Rules), if the subdivision falls within the scope of sections M.1.5(a) and M.2.1, including requirements related to:
 - a. the minimum standards set out in Chapter 2 of Title M regarding water, wastewater, greywater, sludge disposal, setbacks, and the number of dwelling units per lot.
 - b. the final engineering report described in section M.3.2.
 - c. the execution of an agreement with the county for the provision of certain improvements, and a bond or other financial guarantee (such as a cash deposit or a letter of credit) securing the agreement, as described in section M.3.4.
17. note on the face of the plat any variance already granted by the Commissioners Court, along with the date such variance was granted.
18. note on the face of the plat the requirement that each purchase contract made between a Subdivider and a purchaser of the land in the subdivision contain a statement describing how and when water, sewer, electricity, and gas services will be made available to the subdivision.
19. A digital copy of the plat in DWG, DXF, or a format as required by the County shall be submitted to the Hidalgo County Planning Department with the initial plat review and prior to final approval from the Subdivision Advisory Board and Hidalgo County Commissioner's Court. Any changes conducted during the construction of the improvements shall be documented on the plat.
20. As-Built plans in DWG, DXF, or a format as required by the County shall be submitted along with a letter of certification stating that all construction has been conducted in accordance with County

specifications and that said As-Builts are a true representation of the improvements conducted at the site.

21. Provide plat notes on the face of the plat as outlined in the Appendix of these rules.
- F. The Subdivider of the tract must acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat.

3.8 Review and Approval of Final Plats by Commissioners Court

- A. **Scope of Review.** The Commissioners Court will review the final plat (and its supporting information) to determine whether it meets the requirements of these Rules and state law.
- B. **Disapproval.** The Commissioners Court shall refuse to approve a plat if it does not meet the requirements prescribed by or under these Rules and state law.
- C. **Disapproval of any preliminary plat or final plat by the Commissioners Court shall be deemed a refusal by the County to accept the offered dedications, if any, shown thereon. Approval of a plat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the County concerning the maintenance or improvements of any such dedicated parts until the proper authorities of the County have actually appropriated the same by an order of the Hidalgo County Commissioners Court, or by entry, use, or improvement.**

Road and drainage bond requirements.

1. The Commissioners Court may require the owner to execute a bond or other financial guarantee to assure the construction of the streets and drainage improvements. The bond must:
 - a. be payable to the county judge or to the judge's successors in office;
 - b. be in an amount determined by the Commissioners Court to be adequate to ensure proper construction of the roads and streets in the subdivision, but not to exceed the estimated cost of construction of the roads and streets;
 - c. be executed with sureties as may be approved by the Court;
 - d. be executed by a company authorized to do business as a surety in this state if the Court requires a surety bond executed by a corporate surety; and
 - e. be conditioned that the roads and streets will be constructed:
 - (1) in accordance with the specifications adopted by the Court; and
 - (2) within a reasonable time set by the Court.
2. In lieu of the bond an owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee.
3. If a letter of credit is used, it must:
 - a. list as the sole beneficiary the county judge; and
 - b. be conditioned that the owner of the tract of land to be subdivided will construct any roads or streets in the subdivision:
 - (1) in accordance with the specifications adopted by the Court; and
 - (2) within a reasonable time set by the Court.

Water and sewer bond requirements.

1. Unless a person has completed the installation of all water and sewer service facilities required by these Rules or state law on the date that person applies for final approval of a plat, the Commissioners Court shall require the Subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the Commissioners Court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the FDIC. The Subdivider must comply with the requirement before subdividing the tract.
2. The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the Model Rules adopted under Section 16.343, Water Code (see, generally, Title M and the related portions of the Appendix).

3.9 Release of Approved Final Plat for Recording

- A. Any variance granted by the Commissioners Court shall be noted on the face of the plat, along with the date such variance was granted, prior to release of the plat for recording.
- B. Upon submission to the County Planning Department of all required bonds and other financial guarantees, and the tender of the recording fee as required by the County Clerk, the County Planning Department will release the plat for recording.
- C. The plat (with its required attachments) must be filed and recorded with the County Clerk. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

3.10 Plat Approval Certificate under Local Govt. Code § 232.028(a)

On the approval of a plat by the Commissioners Court, the Commissioners Court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the Commissioners Court.

3.11 Water and Sewer Service Extension

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 water and sewer service facilities must be fully operable if the Commissioners Court finds the extension is reasonable and not contrary to the public interest.

The Commissioners Court may not grant an extension under subsection A if it would allow an occupied residence to be without water or sewer services.

If the Commissioners Court provides an extension, the Commissioners Court shall notify the attorney general of the extension and the reason for the extension. The attorney general shall notify all other state agencies having enforcement power over subdivisions in affected counties of the extension.

CHAPTER 4 - INTENTIONALLY OMITTED

CHAPTER 5 - VARIANCES

5.1 General Requirements

Where literal enforcement of some provision contained in these Rules will result in undue hardship to the Subdivider, and when a variance from such provision 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, the Commissioners Court shall, subject to the limitations under state law, have the authority to grant a variance from the provision. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship. A variance shall not be granted if it would have the effect of preventing the orderly development of other land in the area in accordance with the Hidalgo County Subdivision Rules.

5.2 Limitations under State Law

Except as provided by Section 16.350(d), Texas Water Code, or Section 232.042 or 232.043, Texas Local Government Code, the Commissioners Court may not grant a variance or adopt any regulations that waive any requirements of subchapter B of chapter 232 of the Texas Local Government Code.

Variance from the Model Rules. The Commissioners Court may grant an exemption for a subdivision from the requirements of the Model Rules (Title M) only if the county supplies the subdivision with water supply and sewer services that meet the standards of the Model Rules.

A variance or delay from compliance with the requirements of Texas Local Government Code § 232.040 may be granted as provided by Texas Local Government Code § 232.042.

5.3 Special Types of Variances

Type 1 - Pre-existing Conditions Variance. A request for a Type 1 variance must be based upon facts that existed prior to July 3, 1990. It must be shown that the property and the conditions for which a variance is being requested existed prior to the effective date of these Rules, that the Subdivider has no other property adjacent to or within two hundred feet (200') of the subject tract, that there is no possible way that the Subdivider could comply with strict literal enforcement of these Rules, and that granting of such a variance would not injure the public health, safety, or welfare.

Type 2 - Harmless Variance. A variance that would not be harmful to the public health, safety, or welfare.

5.4 Application for Variance

An application for a variance shall be made in writing to the County Planning Department. The application shall state specifically which chapter, section, or subsection a variance is being requested from and shall contain all information which the Subdivider feels supports the requested variance.

An application for an exemption from the requirements of the Model Rules must be accompanied by an estimate, prepared by an engineer, of the cost for the county to supply the subdivision with water supply and sewer services that meet the standards of the Model Rules.

5.5 Procedure for Review of Application for Variance

The Commissioners Court makes the ultimate decision on an application for a variance, following review and recommendation by the County Planning Department or the Hidalgo County Subdivision Advisory Board or both, as applicable. The applicant may withdraw a request for a variance at any point in the process. A variance is usually requested at the time of submission of the preliminary plat. A variance may be sought before the submission of a preliminary plat provided the information on or with the preliminary plat is not required for determination of the variance request.

A. Review by County Planning Department.

An application is first reviewed for completeness by the County Planning Department. The County Health Department, Hidalgo County Drainage District No. 1, and the Planning Department then review the complete application on its merits. If the requested variance meets the criteria of a Type 1 or Type 2 variance, the County Planning Department may make a recommendation to deny the variance, to grant it, or to grant it with conditions. After the County Planning Department has determined that a variance does not meet the Type 1 or Type 2 criteria, or after the County Planning Department has made a recommendation on a Type 1 or Type 2 variance, or upon the written request of the applicant (either before or after the County Planning Department has made a determination or a recommendation), an application shall be scheduled for review and recommendation at a public hearing of the Hidalgo County Subdivision Advisory Board. Additional information may be attached to the application by the County Planning Department (with a copy being provided to the applicant), and packages of all information shall be forwarded to the Hidalgo County Subdivision Advisory Board members at least four days prior to the meeting date.

B. Review by Hidalgo County Subdivision Advisory Board.

The Subdivider shall have the opportunity to make an oral presentation. The representative of the County Planning Department shall be given an opportunity to present such additional information as he or she feels necessary. The public hearing shall be conducted in a courteous manner with everyone being given ample chance to speak without interruption by others. The Board's decision--a recommendation to deny the variance, to grant it, or to grant it with conditions--shall be reached by a simple majority of the members present. Minutes of the meeting will be kept by a secretary chosen by the Hidalgo County Subdivision Advisory Board.

The applicant shall be mailed a written notice of the decision, or of the Board's failure to reach a decision, within five (5) days after the conclusion of the hearing. The notice shall be signed by the chair of the Board or by two members thereof. Copies shall also be provided to the County Planning Department and the County Clerk. The Planning Department shall then request a public hearing on the variance before the Commissioners Court.

C. Consideration by Commissioners Court

The Commissioners Court shall hold a public hearing on the application for the variance. The applicant and the County Planning Department shall have at least five (5) days notice of the Commissioners Court's hearing on the application. The Commissioners shall be provided copies of all pertinent written information developed during the review of the variance. After providing an opportunity for all concerned to be heard, the Commissioners Court shall proceed to deny the variance, to grant it, or to grant it with conditions. The full extent of the reasons for such a variance, when granted, shall be duly recorded in the Minutes of the Commissioners Court. If the Commissioners Court grants an exemption for a subdivision from the requirements of the Model Rules (Title M hereof), the Court shall identify the source of funding to supply the subdivision with water and sewer services that meet the requirements of the Model Rules.

5.6 Notation of Variance on Plat

Any variance granted shall be noted on the face of the plat, along with the date such variance was granted, prior to recording of the plat.

CHAPTER 6 - ENFORCEMENT

6.1 General Enforcement Authority under Texas Local Government Code § 232.037

The attorney general, the criminal district attorney, or attorney employed by the Court for this purpose may take any action necessary in a Court of competent jurisdiction on behalf of the state or on behalf of residents to:

1. enjoin the violation or threatened violation of the Model Rules adopted under Section 16.343, Water Code;
2. enjoin the violation or threatened violation of a requirement of subchapter B of chapter 232, Texas Local Government Code, or a rule adopted by the Commissioners Court under said subchapter B;
3. recover civil or criminal penalties, attorney's fees, litigation costs, and investigation costs; and require platting or re-platting under Section 232.040, Texas Local Government Code.

The attorney general, at the request of the district or county attorney with jurisdiction, may conduct a criminal prosecution under Section 232.033(h) or 232.036, Texas Local Government Code.

This Title B and Subchapter B of Chapter 232, Texas Local Government Code, are subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354 and 16.3545, Texas Water Code.

6.2 Civil Penalties under Texas Local Government Code § 232.035

A Subdivider or an agent of a Subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by subchapter B of chapter 232, Texas Local Government Code.

Notwithstanding any other remedy at law or equity, a Subdivider or an agent of a Subdivider may not cause, suffer, allow, or permit any part of a subdivision in an affected county over which the Subdivider or an agent of the Subdivider has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Texas Health and Safety Code.

A Subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates subchapter B of chapter 232, Texas Local Government Code or a rule or requirement adopted by the Commissioners Court under said subchapter is subject to a civil penalty of not less than \$500 or more than \$1,000 for each violation and for each day of a continuing violation but not to exceed \$5,000 each day and shall also pay Court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

Except as provided by subsection E, a person who violates subsection A or B is subject to a civil penalty of not less than \$10,000 or more than \$15,000 for each lot conveyed or each subdivision that becomes a nuisance. The person must also pay Court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

A person who violates subsection B is not subject to a fine under subsection D if the person corrects the

nuisance not later than the 30th day after the date the person receives notice from the attorney general or a local health authority of the nuisance.

Venue for an action under this section is in a district Court of Travis County, a district Court in the county in which the defendant resides, or a district Court in Hidalgo County.

6.3 Criminal Penalties under Texas Local Government Code § 232.036

A Subdivider commits an offense if the Subdivider knowingly fails to file a plat required by subchapter B of chapter 232, Texas Local Government Code. An offense under this subsection is a Class A misdemeanor.

A Subdivider who owns a subdivision commits an offense if the Subdivider knowingly fails to timely provide for the construction or installation of water or sewer service as required by Section 232.032, Texas Local Government Code, or fails to make a reasonable effort to have electric utility service and gas utility service installed by a utility as required by said Section 232.032. An offense under this subsection is a Class A misdemeanor.

If it is shown at the trial of an offense under Subsection A that the defendant caused five or more residences in the subdivision to be inhabited, the offense is a state jail felony.

A Subdivider commits an offense if the Subdivider allows the conveyance of a lot in the subdivision without the appropriate water and sewer utilities as required by Section 232.032, Texas Local Government Code, or without having made a reasonable effort to have electric utility service and gas utility service installed by a utility as required by said Section 232.032. An offense under this subsection is a Class A misdemeanor. Each lot conveyed constitutes a separate offense.

Venue for prosecution for a violation under this section is in the county in which any element of the violation is alleged to have occurred or in Travis County.

6.4 Additional Enforcement

See state law and Chapter 4 of Title M for other provisions related to enforcement.