

BREWSTER COUNTY
SUBDIVISION REGULATIONS

ADOPTED MARCH 12, 2001

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ARTICLE 1

General Provisions

Section 1.1: Title

These regulations shall be known, cited and referred to as the *Subdivision Regulations of Brewster County, Texas*, and are hereafter referred to as "these Regulations".

Section 1.2: Policy

Brewster County considers the subdivision of land and subsequent development thereof to be subject to its control pursuant to the authority granted in County in Section 232 of the Texas Local Government Code. Land to be subdivided shall be of such character that it can be used safely for building purposes without endangering the public health and safety, and subdividers shall ensure that adequate access, drainage and utilities are provided in accordance with the intended use of subdivided parcels.

The County further asserts that it is its policy that land which was subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes enumerated below.

Section 1.3: Purposes . These Regulations are adopted for the following purposes:

- 1.3.1 To protect and provide for the public health, safety and general welfare of the County;
- 1.3.2 To provide for a systematic process for approval of subdivisions which provides reasonable standards for review and opportunity for public input;
- 1.3.3 To establish standards for the design, construction and naming of roads within the County and to encourage the development of a safe and efficient road system within the County;
- 1.3.4 To ensure that all purchasers of property in subdivisions within this County receive adequate information concerning the availability of water and utilities; and
- 1.3.5 To ensure that the costs of development are not borne by the County's taxpayers, and that these costs are borne by subdividers and developers.
- 1.3.6 To ensure that this County complies with the Economically Distressed Areas Program Model Subdivision Rules as promulgated by the Texas Water Development Board, pursuant to Texas Water Code, § 16.343.

Section 1.4: Authority

- 1.41 Authority under these subdivision regulations is vested in the Brewster County

Commissioners Court. The Commissioners Court may establish and vest in the Brewster County Planning Commission authority to review, approve, conditionally approve and disapprove applications for the subdivision of land, including both preliminary and final plats. The Planning Commission may grant variances from these Regulations only pursuant to the provisions of Section 1.11. In the event that no Planning Commission is established, then the Commissioners Court shall fulfill all functions of the Planning Commission.

The Commissioners Court absolutely reserves unto itself the authority to accept or reject any dedication of land for public purposes that may be offered by plat instrument. The Commissioners Court further absolutely reserves unto itself the authority to grant final approval for any subdivision plat.

Section 1.5 Jurisdiction

1.5.1 These Regulations apply to all subdivisions of land, as defined herein, located within the County but not within the corporate limits of any municipality in the County. These Regulations apply within the Extra-Territorial Jurisdiction of any incorporated area to the extent that they are the more stringent regulations, as set out in §241.001, Local Government Code, VTCA.

1.5.2 No land subject to these Regulations may be subdivided through the use of any legal description other than with reference to a plat as approved by the Commissioners Court or Planning Commission, in accordance with these Regulations, and filed with the County Clerk.

Section 1.6: Interpretation. Conflict. And Severability

1.6.1 *Interpretation.* In their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements for the promotion of the public health, safety, and general welfare. These Regulations shall be construed broadly to promote the purposes for which they are adopted.

1.6.2 *Conflict.*

a. *Public Provisions.* These Regulations are not intended to interfere with, abrogate, or annul any other County regulation, state statute, or other provision of law except as provided in these Regulations. Where any provision of these Regulations or any other rule or regulation or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

b. *Private Provisions.* These Regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these Regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these Regulations shall govern.

1.6.3 *Severability.* If any part or provision of these Regulations, or the application of these Regulations to any person or circumstance is adjudged invalid by any court of competent jurisdiction, the 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 application of them to other persons or circumstances. The Commissioners Court hereby declares that it would have enacted the remainder of these Regulations, even without any such part, provision, or application which is judged to be invalid.

Section 1.7 Saving Provision

These Regulations shall not be construed as abating any action now pending under or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving the right of the State or County under any section or provision existing at the time of adoption of these Regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the County except as shall be expressly provided for in these Regulations.

Section 1.8: Reservations and Repeals

Upon the adoption of these Regulations in accordance with the law, the subdivision regulations of Brewster County adopted on April 12, 1999, including any amendments thereto, shall be deemed repealed concurrent with the effective date of these Regulations.

Section 1.9: Amendments

For the purpose of protecting the public health, safety and general welfare or for any other valid purpose, the Commissioners Court may, from time to time, amend these Regulations at a public meeting following public notice in the manner prescribed by law. Such amendments, if they pertain to matters under the jurisdiction or authority of the Texas Water Development Board, shall be submitted to the Texas Water Development Board for approval prior to their being made effective.

Section 1.10 Public Purpose

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this County. Developers and subdividers have the duty of compliance with reasonable conditions laid down by the Commissioners Court and / or the Planning Commission for design, dedication, improvement, and restrictive use of land to conform to the physical and economic development of the County; developers and subdividers further have the duty to promote the health, safety, and general welfare of future lot owners in subdivisions and of the community at large.

1.11: Variances and Exceptions

1.11.1 *General.* The Commissioners Court of Brewster County recognizes that there are vast differences in terrain and population density in Brewster County. In instances when the Commissioners Court finds that extraordinary hardships or extreme practical difficulties will result from strict compliance with these Regulations and/or the purposes of the regulations may be fulfilled to a greater extent by an alternative proposal, the Commissioners Court may approve variances, or exceptions to these Regulations so that substantial justice may be done and the public interest secured. A variance or exception granted by Commissioners Court shall not have the effect of nullifying the intent and purpose of these Regulations, **and that variance must be allowed by Texas law.** The Commissioners Court shall not approve variances or exceptions unless it makes findings based upon evidence presented to it in each specific case that:

a..The granting of the variance or exception will not be detrimental to the public health, safety or welfare, injurious to other property, or contrary to Model Subdivision Rules promulgated by the Texas Water Development Board if those model rules are applicable;

b. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;

c. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.

Authority to make final approval of all variances and exceptions is vested in the Commissioners Court.

1.11.2 *Conditions.* In approving variances or exceptions, the Commissioners Court may require such conditions as will, in its judgment, secure substantially the purposes described in Section 1.3

1.11.3 *Procedures.* A petition for a variance or exception shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration by the Commissioners Court or Planning Commission. The petition shall state fully the grounds for the variance and all of the facts relied upon by the subdivider.

Section 1.12: Enforcement. Violations. and Penalties

1.12.1 *General*

a. No owner, or agent of an owner, of any parcel of land located in a proposed subdivision shall transfer or sell any part of the parcel before a final plat of the subdivision has been approved by the Commissioners Court in accordance the provisions of these Regulations and filed for record by the County Clerk.

b. The subdivision of any lot or any parcel of land which is subject to these regulations by

the use of a metes and bounds description for the purpose of sale, transfer, lease, or development is prohibited.

1.12.2 *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.

1.12.3 *General Enforcement Authority of County.*

a. *Legal Action.* At the request of the Commissioners Court, the County Attorney or other prosecuting attorney may file an action in a court of competent jurisdiction to:

1. Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under Chapter 232 of the Local Government Code, VTCA; and/or,

2. Recover damages in an amount adequate for the County to undertake any construction or other activity to bring about compliance with a requirement established by or adopted by the Commissioners Court under Chapter 232 of the Local Government Code, and /or such other proceedings as may be appropriate to enforce compliance with these regulations.

b. All state civil and criminal penalties applicable to or related to subdivisions are acknowledged by the County and may be utilized, as applicable, to enforce provisions of these regulations.

ARTICLE 2

Definitions

Section 2.1: Usage

For purposes of these regulations, certain abbreviations, terms and words shall be used, interpreted, and defined as set forth in this Article. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular.

Section 2.2: Words and Terms Defined

Access: Access or accessway within a public or private street right-of-way by which pedestrians and vehicles have lawful and usable ingress and egress to a property line.

Amended Plat: A plat, previously approved by the Brewster County Commissioners Court and duly recorded, which is resubmitted to the County Planning Commission and / or Commissioners Court for correction of minor errors or miscalculations and rerecording. An amended plat may not contain any changes or additions to the physical characteristics of the original subdivision, and is not a replat.

Applicant: The owner of a tract of land proposed to be subdivided, or the representative of the owner that has the express written authority to act on behalf of the owner.

Attorney General: The Attorney General of the state of Texas.

Block: A tract of land bounded by street rights-of-way, or by a combination of street and railroad rights-of-way, irrigation canals, or river levees.

Bond: Any form of surety bond in an amount and form satisfactory to the Commissioners Court. All bonds shall be approved by the Commissioners Court whenever a bond is required by these Regulations.

Certificate of Convenience and Necessity (CCN): A certificate issued by the Texas Natural Resource Conservation Commission, pursuant to the Water Code, Chapter 13, Subchapter G, whereby a certificate holder is given the legal right to provide water and/or sewer utility service to a particular service area, and the certificate holder is obligated to provide service to every customer and qualified applicant who requests service within that area.

Contract for deed: Also commonly referred to as a contract of sale, this term includes all executory contracts for the conveyance of property that require the terms of the contract to be satisfied prior to the conveyance of a deed to the property. A contract for deed for a portion of a larger tract shall be deemed tantamount to a subdivision of the tract and subject to these regulations.

Clearing and grubbing: The removal and disposal of trees, brush, roots and other roots and other similarly objectionable matter from a site prior to its being graded for an intended development.

Commissioners Court (or Court): The Brewster County Commissioners Court.

County: Brewster County, Texas

County Engineer: The Engineer for Brewster County or his designated agent. Absent a staff position, the Commissioners Court may designate an engineering firm or engineer in private practice to serve in this capacity. Should no individual or firm be so designated, the responsibilities of the County Engineer will remain with the Commissioners Court and may be delegated to the Road & Bridge Superintendent by the Commissioners Court.

Cul-de-sac: A local street with only one outlet that terminates in a vehicular turn around designed for the safe and convenient reversal of traffic movement.

Deed restrictions: Also known as restrictive covenants, this term refers to contractual restrictions that limit the use or conditions of use of property. Deed restrictions are imposed at the time a property is conveyed, and such restrictions commonly bind all owners of a property being subdivided and provide for property owners so bound to seek civil relief to enforce the restrictions.

Developer: The owner of land proposed to be subdivided or the owner's representative who is responsible for any undertaking that requires approval under these regulations. See Subdivider.

Drainage control facility: Any facility installed or constructed in conjunction with a drainage control plan for the purpose of controlling the rate of stormwater runoff.

Drainage control plan: A plan for collecting, controlling, transporting or impounding stormwater that falls upon, enters, flows within or exits a subject property.

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, to clean any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.

Dwelling, Multi-family: A building designed and built for occupancy by two or more households that maintain separate cooking and living areas.

Dwelling, Single-family: A building designed and built for occupancy by a single household.

Easement: Authorization by a property owner for another to use the owner's property for a specified purpose.

Engineer: A person licensed and authorized to practice as a Professional Engineer in the State of Texas under the Texas Engineering Practice Act.

Excavating: The mechanical removal of earth material.

Existing grade: The grade at the time of the application of subdivision.

Extra-territorial Jurisdiction (ETJ) Subdivision: Any subdivision located within the extra-territorial jurisdiction of any incorporated municipality in Texas, as defined in the Texas Local Government Code.

Fill: Earth, sand, gravel, rock or similarly approved material deposited in a place other than from which it is excavated, and the act of depositing such materials

Flood Hazard Area: Based on the Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency, or such other regulations for flood plain management as the County may adopt, a low-lying area or an area adjacent to a natural drainage course which has one percent or greater probability of being inundated from stormwater in any given year.

Grade: The degree of inclination of a slope or road.

Grade: proposed grade: The final elevation as proposed by the County Engineer or as shown on improvement plans.

Grading: Excavation or fill or any combination thereof, including the establishment of an elevation.

Greywater: Partially treated septage susceptible for non-potable purposes.

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

Maintenance agreement: An agreement, usually imposed as a part of deed restriction, whereby two or more property owners are contractually bound to maintain a physical improvement that benefits each.

Monumenting: The process of establishing permanent markers to locate a boundary of a subdivision and /or establishing street right-of-way limits or center lines.

Natural Drainage Course: A course formed by nature, which stormwater runoff naturally and normally follows in draining from higher to lower lands.

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

a public water system.

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.

Panhandle Lot: A lot that lacks street frontage except for access provided by way of a narrow projection of the lot to the street.

Planning Commission: A body of five citizens of Brewster County, none of whom are elected officials of the County nor regular employees of the County, duly appointed by the Commissioners Court. The Planning Commission shall serve in an advisory function to the Commissioners Court on matters pertaining to the approval of subdivision plats. Absent the appointment of a Planning Commission, the Commissioners Court shall constitute the Planning Commission.

Plat - A. preliminary: A map or drawing of a proposed subdivision illustrating the features of the development for review and preliminary approval by the Commissioners Court or County Planning Commission, but not suitable for recording in the County records

B. final: A map or drawing of a proposed subdivision and any accompanying materials prepared in a manner suitable for recording in the County records and prepared in conformance with the conditions of these Regulations, after preliminary approval by the County Planning Commission or Commissioners Court.

Platted: Recorded with the County in its official plat records

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 a potential for at least fifteen (15) service connections or serve at least twenty-five (25) individuals at least sixty (60) days out of the year. This term includes any collection, treatment storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than fifteen (15) connections or less than twenty-five (25) individuals but owned by the same person, firm or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are fifteen (15) or greater or if the total number of individuals served by the combined systems total twenty-five (25) or more at least sixty (60) days out of the year. 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 supplies from the system.

Purchaser: Any buyer and includes purchases under executory contracts for real property conveyance.

Replat: The resubdivision of previously platted property which significantly alters road and lot patterns. Replats are subject to the same review standards as original subdivision plats. A replat, once filed with the County Clerk, vacates the underlying plat.

Retail public utility: Any entity meeting the definition of a retail public utility as defined in Water Code §13.002.

Restrictive Covenants: See "Deed Restrictions".

Right-of-Way: A strip of land occupied or intended to be occupied by a street, road, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for any other special use.

Road and Bridge Superintendent: The County employee who manages the Road & Bridge Department and maintains records related to County roads. The Road & Bridge Superintendent reports directly to the full Commissioners Court.

Sanitarian: A person registered as a Professional Sanitarian by the Texas Department of Health under the authority of Vernon's Annotated Texas Civil Statutes, Article 4477-3.

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

State: The State of Texas.

Street - arterial street: A principal traffic artery, carrying higher volumes of traffic, more or less continuously, which is intended to connect remote parts of the area adjacent thereto and to act as a principal connecting street with State Highways.

Street - collector street: A street or road collecting traffic from local streets of a residential nature and leading to streets of a higher type classification.

Street - local street: A street or road which is intended primarily to serve traffic within a neighborhood or limited residential district, and which is not necessarily continuous through several residential districts; is to provide access to adjacent land over short distances.

Street - private street: A roadway not within a public right-of-way, that provides the primary means of vehicular access to two or more lots under separate ownership. Parking lots and private driveways within shopping centers, institutions, commercial areas or industrial developments will not be considered as private streets.

Street - public street: A roadway within a public right-of-way, however designated, dedicated or acquired, which provides vehicular access to adjacent properties.

Street - Stub-end street: A public street not terminated by a permanent circular turnaround, ending adjacent to undeveloped property or acreage.

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

Subdivision: Any tract of land divided into two (2) or more parts that results in the creation of two (2) or more lots of ten (10) acres or less intended for residential purposes. A subdivision includes replat of land which was previously divided.

Surveyor: A state land surveyor or a registered public surveyor, as licensed in the State of Texas, under The Texas Land Surveying Practices Act.

TAC: The Texas Administrative Code.

TNRCC: The Texas Natural Resource Conservation Commission, formerly known as the Texas Water Commission

Tract: A parcel of property defined by a metes and bounds description only, as opposed to a lot that is identified on a subdivision plat filed with the County Clerk.

TWDB: Texas Water Development Board

Unrecorded subdivision: A subdivision of land or description of land for resale that varies from the previous sale description and which subdivision results in the creation of lots or tracts requiring current or future public access, but for which a plan or plat has not been authorized for recording by the Brewster County Commissioners Court or has not been recorded by the Brewster County Clerk.

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

Article 3
Classification of Subdivisions and Exemptions from
Subdivision Requirements

3.1: Classification of Subdivisions

- 3.1.1 The requirements for the review and approval of subdivision plats shall vary depending on the size of the proposed subdivision as follows:
- a. *Type I Subdivisions* are those generally intended for dense suburban residential development with lots of five acres or less. A subdivision which contains lots of five acres and less, together with lots of above five acres, shall be considered a Type I subdivision. Type I subdivisions are subject to the Economically Distressed Areas Program Model Subdivision Rules as promulgated by the Texas Water Development Board. The Economically Distressed Areas Model Rules are found in Appendix A of these subdivision regulations and are incorporated in these regulations by reference.
 - b. *Type II Subdivisions* are those intended for large lot, less dense residential development. Type II Subdivision include subdivisions within which all lots are five acres or greater.
- 3.1.2 *Large Parcel Development and Voluntary Platting.* Any subdivision of lands into two or more parts, all parts of which are ten (10) acres in size or larger, is exempt from platting requirements and the Brewster County Subdivision Regulations. A subdivider may, on a voluntary basis, plat a Large Parcel Subdivision by following procedures set out for and meeting the requirements of a Type II Subdivision.
- 3.1.3 *Non-residential Development.* Subdivisions intended exclusively for non-residential, commercial development shall be classified in like manner with Type I Subdivisions except that the Commissioners Court may elect to impose the less stringent requirements of Type II classification, if the Commissioners Court determines that these less stringent standards are in the public interest.
- 3.1.4 *Agricultural Uses.* Subdivision of land intended for farming or ranching activity and not for residential development shall not be subject to platting requirements. Subdivisions containing parcels smaller than forty (40) acres in size will be deemed non-agricultural, unless the owner submits evidence that, in the judgment of the Commissioners Court, clearly indicates that the use of the subdivided parcels will be limited to agricultural use.

Article 4

Application Procedures, Plat Approval, and Other Plat Requirements Special Requirements for Type I Subdivision Plats

Section 4.1 Procedures for Approval Requisites of Plats

No land shall be subdivided outside the boundaries of any incorporated municipality in Brewster County, Texas until the subdivider has complied with the following procedures:

Section 4.2 Plat Procedures

Preliminary Plat Procedures

- 4.2.1 The subdivider shall submit five (5) copies of a proposed plat of the parcel to the Brewster County Commissioners Court by filing the proposed plat with the Brewster County Clerk. If a subdivider elects, a proposed final plat may also serve as a proposed preliminary plat.
- 4.2.2 The proposed preliminary plat shall be on file and available for public inspection and review for at least twenty-one (21) days, prior to the Commissioners Court or County Planning Commission approving the proposed preliminary plat.
 - 4.2.2.1 The proposed preliminary plat, prior to approval by Commissioners Court, and its construction plan shall be reviewed and approved as being in conformance with these regulations by the County Engineer or Road & Bridge Superintendent, as appropriate. The County Engineer or Road & Bridge Superintendent shall also conduct an onsite inspection of the proposed subdivision.
 - 4.2.2.2 The proposed preliminary plat shall be reviewed and approved as being in conformance with these regulations by the Brewster County Attorney, prior to approval by Commissioners Court.
 - 4.2.2.3 The proposed preliminary plat shall be reviewed by and an on site inspection of the subdivision shall be made by the Commissioner in whose precinct the proposed subdivision is located, prior to approval by Commissioners Court. In the event that the Commissioner in whose precinct the subdivision is located is unable to inspect, then the inspection shall be by another Commissioner designated by the County Judge or by the County Judge.
 - 4.2.2.4 The proposed plat shall be reviewed by the County On Site Sewage Inspector for suitability for on site sewage systems, if on site sewage disposal is proposed for the subdivision, prior to approval by Commissioners Court.
 - 4.2.2.5 The above County officials shall make written comments to the Commissioners Court or to the County Planning Commission, as appropriate, concerning their review of the proposed

- primary plat and of the proposed subdivision and shall provide copies of their comments to the subdivider.
- 4.2.3 A notice advising the public of the filing and availability for review of the proposed preliminary plat shall be published, at the subdivider's expense, in a newspaper of general circulation in the County within two weeks after the filing date of the preliminary plat. Notice shall be sufficient if it is substantially as set out in Appendix A-7.
- 4.2.4. The Commissioners Court or County Planning Commission, in a duly posted regular or called meeting shall provide for public comment regarding the proposed preliminary plat, prior to giving preliminary approval to the plat. Public comment may be given at a meeting prior to the meeting at which preliminary approval is given or at the same meeting at which preliminary approval is given. The subdivider or the subdivider's designated representative shall appear at that Commissioners Court meeting at which public comment is sought. The Commissioners Court shall also consider written comment from the public in regard to the proposed preliminary plat.
- 4.2.5. Consideration of the proposed preliminary plat and approval, if approval is warranted, shall be given in a duly posted open meeting of the Commissioners Court or the Planning Commission, as appropriate, not earlier than twenty one (21) days after the filing date of the proposed plat. Approval shall not be given unless there has been compliance with Section 4.2 of this article. At that meeting, Commissioners Court or the Planning Commission shall also accept or reject, on a preliminary basis, any proposed dedication to the public or to the County on the plat.
- 4.2.6 If preliminary approval of all or any part of the proposed preliminary subdivision plat is not warranted, the Commissioners Court or Planning Commission may request that additional modifications or work be done on the preliminary plat, and that the proposed preliminary plat be reconsidered at a later meeting of Commissioners Court.

Section 4.33 Final Plat Approval Procedures

- 4.3.1 No subdivision plat shall be finally approved until at least ten days (10) have lapsed after the date of preliminary approval of the subdivision plat by Commissioners Court or Planning Commission.
- 4.3.2 Final approval of the plat shall be at a duly posted regular or called meeting of Brewster County Commissioners Court at which members of the public have the opportunity to comment prior to action of the Court to finally approve or disapprove the final plat. At that meeting, the Commissioners Court shall also finally accept or reject any dedications to the County in the plat. Final approval of all subdivision plats is vested in the Brewster County Commissioners Court. Upon final approval, an Order granting approval shall be entered in the minutes of Commissioners Court. Final plat approval shall not be granted unless the subdivider has met all applicable standards of these regulations and has paid all required County fees.

4.3.3 Final approval of a Type I Subdivision Plat shall not be given by Commissioners Court until the requirements of Economical Distressed Areas Program Model Subdivision Rules are met. (See Appendix)

4.3.4 The finally approved plat shall be filed of record in the Brewster County Clerk's Office.

4.4 PLAT REQUIREMENTS

4.4.1 Proposed Preliminary Plat Requirements

Proposed preliminary plats shall be drawn and prepared according to the following specifications. A preliminary plat map for a proposed subdivision shall be drawn to a scale of one inch represents one hundred feet (1":100'), except that a scale of one inch represents two hundred feet (1":200') may be used if the subdivision is greater than one hundred acres in size. The maximum sheet size shall be 24" x 36". The maximum final plat size for recording is 24" x 36" and the minimum final plat size for recording shall be 18" x 24".

4.4.2 The plat map shall contain date of preparation, scale and north point, the name and address of the owner, the name of the surveyor, and the name of the preparer, if different;

4.4.3 A location map shall be provided at a scale not less than one inch represents two thousand feet (1":2,000'). The location shall show adjoining subdivisions, and shall indicate where streets are proposed to connect to provide access to the subdivision from other public streets or highways. The location map shall be oriented the same as the preliminary subdivision plat drawing.

4.5.6 The proposed name of the subdivision or development shall not be a duplicate of any subdivision or development of record or in process within Brewster County.

4.4.7 The legal description of the property proposed to be subdivided including name of the tract, block, survey or grant, and County, together with reference to the nearest section corner or a corner of the original survey of which it is a part shall be included. The total acreage of the subdivision shall be placed at the end of the legal description.

4.4.8 The plat shall show the location of existing boundary lines; the width and location of existing street rights-of-way within or adjacent to the property; the locations of significant features including water courses, ravines, existing bridges, culverts, and other pertinent features; and the location of any existing utilities within the proposed subdivision or outside the subdivision boundaries but capable of serving the subdivision. The approximate acreage of lots shall be indicated for each lot.

4.4.9 The map shall provide topographic information. The National Geodetic Vertical Datum of 1929 shall be referenced. Such topographical information, location and dimensions shall be of sufficient accuracy as to permit the identification of natural drainage courses and the subsequent planning of drainage facilities, streets and other proposed improvements. For

purposes of preliminary review only, a subdivider may elect to use topographic mapping available from the 7.5 minute series quadrangle maps as prepared by the U.S. Geological Survey. However, current topographic information, in the form of two foot (2') contour intervals based on aerial photogrammetry and/or field surveys conducted by the licensed surveyor, shall be required for subsequent engineering design and construction drawings. The boundaries of any Flood Hazard Area crossing the property shall be clearly indicated.

- 4.4.10 The plat shall include the names, locations, width and dimensions of proposed streets, including both right-of-way and roadway widths, and of drainage and public utility easements. The relationship of proposed streets and easements to those in adjoining subdivisions shall be clearly indicated. The legal descriptions of adjoining properties shall be labeled.
- 4.4.11 The plat shall include a summary of what utility services are proposed to serve the development, and from which utility providers service is to be obtained. For Type II Subdivisions, if no utility services are provided, a statement clearly indicating that no utility services are provided shall be included.
- 4.4.12 For Type II Subdivisions, if no water supply is to be provided, a statement concerning location, production and water quality from any existing water wells in the proposed subdivision shall be included, or if there are no existing wells in the proposed subdivision, a statement that there are no existing wells in the subdivision and that availability of water is unknown shall be included.
- 4.4.13 A general summary description of any deed restrictions proposed indicating the lots so restricted and whether a property owners' association is proposed for purposes of maintaining private streets or other similar facilities shall be included.

Section 4.5. Final plat requirements.

After the preliminary plat has been approved, a final plat shall be prepared of the size and in the format as required for filing with the County Clerk. The final plat map shall be substantially in accord with the approved preliminary plat. The preliminary and final plat may be the same plat if that plat meets all the requirements of these regulations. The plat map shall be drawn to a scale of one inch represents one hundred feet (1":100'), except that a scale of one inch represents two hundred feet (1":200') may be used, with the permission of the County Engineer/R & B Superintendent, provided all required information remains readable. The plat shall be drawn on one or more sheets between 18" x 24" or 24" x 36" in size. Final plat submittal requirements are as follows:

- 4.5.1 A minimum of five (5) copies of the final plat shall be submitted to the County Clerk.
- 4.5.2 The plat map shall contain the subdivision name, legal description, acreage, scale, north point, date of preparation, names of adjoining properties, streets and easements.
- 4.5.3 The plat map shall contain a location map at a scale not less than one inch represents two

- 4.5.3 The plat map shall contain a location map at a scale not less than one inch represents two thousand feet (1":2,000'). The location shall show adjoining subdivisions, and shall indicate where streets are proposed to connect to provide access to the subdivision from other public streets or highways. The location map shall be oriented in the same direction as the larger-scale subdivision plat;
- 4.5.4 The plat map shall contain the name of the subdivision and adjoining subdivisions, the names of all streets within and adjoining the subdivision, lot and block numbers, street addresses (provided by the County Engineer/ Road & Bridge Superintendent), and the square footage of each lot shall be placed under its lot number.
- 4.5.5 All rights-of-way and easements shall be labeled to indicate the purpose for which such easements are dedicated. Similarly, parcels intended for public use, or common areas set aside for use by the residents of the subdivision, shall be appropriately labeled. All the easements of record shall be shown, or if incapable of being definitely located on the ground, a statement of such easements must appear on the plat. Complete recording citations shall be provided for all existing easements.
- 4.5.6 Sufficient data shall be provided to determine readily and reproduce on the ground the location, true bearing and length of every street right-of-way line, lot line and easement. Dimensions shall be shown in feet and hundredths of a foot, and angles in degrees, minutes and seconds. Any line that is curved shall be annotated with complete curve data including radii, arc length, chord bearing and central angle. All lines and ties to primary control points and existing monuments, survey corners shall be shown.
- 4.5.7 The location of all permanent Monuments and control points shall be shown. Monuments and Pins shall be delineated in a standard manner with:
1. found or set monuments shown as a solid circle
 2. to-be-set monuments as an open circle with a solid small circle in the center; and
 3. to-be-set pins as an open circle to indicate return radii, change of bearing and block corners.
- 4.5.8 The location of the boundaries of the Flood Hazard Area for all drainage courses shall be shown on the final plat. These boundaries shall be certified by the engineer or surveyor whose seal and signature appear on the plat. However, should the subdivider elect to contain the Flood Hazard Area within a drainage easement, the actual boundaries of the Flood Hazard Area need not be shown on the plat provided that engineering calculations provided with the subdivision improvement plans demonstrate, to the satisfaction of the County Engineer / R & B Superintendent, that the storm water flow will be contained within the drainage easement.
- 4.5.9 If any portion of a building lot is proposed within a Flood Hazard Area, minimum finished floor elevations shall be established as part of the subdivision improvement plans, restrictive covenants filed concurrently with the subdivision plat, and a note shall be placed on the final plat map as follows:

“A portion of this subdivision lies within a Flood Hazard Area. Minimum finished floor elevations for all lots within the designated Flood Hazard Area are on file with the County Tax Assessor Collector.”

- 4.5.10 One or more benchmarks shall be monumented in subdivisions which contain or bound Flood Hazard Areas. The distance from any lot in a subdivision to the closest benchmark in the subdivision shall not exceed 3,500 feet. The elevations of the benchmark monuments shall be certified by a surveyor, and the locations of the benchmark monuments shall be shown on the subdivision improvement plans.
- 4.5.11 For Type I Subdivisions, certification from utility and/or service agencies indicating their satisfaction with the location and extent of utility easements shall be included. The certification will also state whether existing utility services will be sufficient to serve the subdivision. If certifications are not submitted with the final plat submittal, the County may forward plats and a comment sheet to utility service agencies requesting utility service information and easement location comments. The County may charge a fee to cover the cost of making inquiry for utility service information.

4.6 Certificates and Acknowledgments for All Final Plats

The following certificates and acknowledgments shall appear on the first sheet of the final plat map.

- 4.6.1 A dedication statement, signed and acknowledged by the owner(s) dedicating all rights-of-way, easements and other parcels intended for public use. The form of this dedication statement is provided in the appendix of these Regulations.
- 4.6.2 The signature and seal of a registered surveyor certifying that the plat represents a survey made by him, and that all necessary survey monuments are correctly shown thereon;
- 4.6.3 The signature and the seal of a professional engineer, if applicable, certifying that improvement plans for the subdivision were prepared by him or under his supervision.
- 4.6.4 Spaces shall be provided for the signatures of the members of the Commissioners Court attesting to approval of the plat and attesting to the acceptance of any offered dedication.
- 4.6.5 A space shall be provided for the signature of the County Clerk attesting to the date and fact of filing for record and book and page of record in the Plat Records of Brewster County.
- 4.6.6 If deed restrictions are to be recorded together with the plat, a statement to that effect shall be included together with a space for referencing recording information.
- 4.6.7 If any portion of any lot shown on a subdivision final plat is covered by a Flood Hazard Area, an informational note as provided for in paragraph 4.6.9 shall be included.

- 4.6.8 For Type 1 Subdivisions, an informational note shall be included stating that no more than one single family detached dwelling shall be located on each lot.

Section 4.7 Other Data Required with All Final Plats

All final plats shall incorporate all the provisions relating to preliminary plat approval where appropriate and reflect the conditions of the final requirements and previously imposed requirements by the County Engineer/ Road & Bridge Superintendent and/or Commissioners' Court, together with the following additional requirements:

- 4.7.1 A tax certificate (receipt) from all taxing entities that levy ad valorem taxes within the County, certifying that all taxes for the subdivision have been paid;
- 4.7.4 A copy of the deed restrictions to be recorded, if any, shall be submitted for review and approval;
- 4.7.5 Proof of ownership of the tract subdivided and platted shall be submitted;
- 4.7.6 Proof of any required authorizations from TNRCC or the Texas Department of Health;
- 4.7.7 The acreage subdivided out of each tract and the acreage out of each original survey, if out of more than one tract or more than one original survey, shall be provided to the County's Central Appraisal District, and said information shall be certified by the surveyor of record of the subdivision.

Article 5
Subdivision Road Standards, Lot Size,
Easements, and Drainage

Section 5.1: General Requirements

No subdivision shall be approved until the subdivider provides for the construction of such roads or other public improvements as may be required as a condition of subdivision plat approval. The Commissioners Court or Planning Commission may give approval of a subdivision plat subject to the submission of improvement plans and their review and approval by the County Engineer or Road and Bridge Superintendent. When improvements are required as a condition of plat approval, the subdivider shall employ an engineer to prepare those improvement plans.

Section 5.2: Road Layout

- 5.2.1 *Connections Required.* The arrangement of roads shall provide for the continuation of arterial roads. Provision for the continuation of collector roads between adjacent properties shall be provided when such continuation is necessary for convenient movement of traffic, effective fire protection or for efficient provision of utilities.
- 5.2.2 *Street Hierarchy.* The pattern of roads within a subdivision shall employ a hierarchy of road widths from arterials to collectors to local streets, reflective of the diminishing speed and volume of vehicular traffic, and reflective of the increasing need to provide access to residential lots. Local roads shall be laid out to discourage their use by through traffic while providing convenient and safe access to property.
- 5.2.3 *Provision for Road Extensions.* Proposed roads shall be extended to the boundary lines of the property being subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the Commissioners Court or Planning Commission, such road extension is unnecessary or undesirable for the future development of adjacent properties.
- 5.2.4 *Conformance to Topography.* Roads and their construction shall be appropriate to the topography of the area. Roads shall be laid out and built so that, to the maximum extent possible, all building sites will be higher than the average elevation of the abutting road. Combinations of steep grades and curves are to be avoided.
- 5.3.1 *Right-of-Way Widths.* The minimum right-of-way widths in all subdivisions shall not be less than sixty feet (60') for local roads, seventy feet (70') for collector roads, or eighty feet (80') for arterial roads.
- 5.3.2 *Traffic Surface Widths.* The improved traffic surface of roads shall be centered within the right-of-way, and shall have a minimum improved width of thirty feet (30') for local roads, forty feet (40') for collector roads, and fifty feet (50') for arterial roads.

Section 5.4: Road Intersections

- 5.4.1 *Angle of Intersection.* Roads shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new roads at an angle of less than seventy degrees (70°) shall not be acceptable. A road approaching another at an oblique angle should curve prior to its intersection and should intersect at right angles for a tangent distance of at least one hundred feet (100') therefrom. Not more than two (2) roads shall intersect at any one point unless specifically approved by the County Engineer or Road & Bridge Superintendent.
- 5.4.2 *Intersection Approach Site Distance.* A road may not intersect another road at a point where the sight distance is restricted to less than three hundred feet (300'), except by approval by the County Engineer or Road & Bridge Superintendent, after a traffic engineering investigation.
- 5.4.3 *Street Off-sets.* Proposed new intersections along one side of an existing road shall, wherever practicable, coincide with any existing intersections on the opposite side of such road. Road jogs with center-line offsets of less than one hundred and fifty feet (150') shall not be permitted.
- 5.4.4 *Return Radii.* Minimum return radii of road rights-of-way at intersections shall be twenty feet (20'); and minimum radii of the traffic surface of intersecting roads shall be thirty-five feet (35').
- 5.4.5 *Intersection Grades.* Intersections shall be designed with a grade less than or equal to two percent (2%) wherever practical. In hilly or rolling areas, the approach grade to an intersection shall provide adequate sight distance in accordance with contemporary engineering practice.

5.5: Cul-de-sacs and Stub-end Roads

- 5.5.1 *Cul-de-sac Roads.* When a road terminates in a cul-de-sac, the minimum right-of-way radius shall be fifty feet (50') and the maximum length shall be no more than seven hundred and fifty feet (750') long, unless topography, low densities, or other conditions, in the judgment of the Commissioners Court or Planning Commission, and upon recommendation of the County Engineer or Road & Bridge Superintendent, warrant an exception to this standard.
- 5.5.2 *Temporary Turn-arounds.* If a road proposed within a subdivision extends to adjacent, undeveloped property, and the road must temporarily stub-end, the right-of-way shall be extended to the property line. The Planning Commission, upon recommendation of the County Engineer, may require a temporary turnaround for such stub-end roads and an easement for the same so provided.

Section 5.6: Road Construction Design Standards

- 5.6.1 Road Surfacing and Improvements.** Roadways within subdivisions shall be constructed to the widths prescribed in these Regulations. Road cross-sections shall provide for a crown or super-elevation of not less than two percent (2%), and swales or other similar measures shall be taken to ensure proper drainage adjacent to the roadway.
- a. In Type I subdivisions, all streets shall be paved with asphalt, concrete, or other approved paving materials. The following are minimum standards for asphalt paving:
1. Asphalt emulsion - MS II
 2. Grade #4 Aggregate
 3. Asphalt must be seal coated within 90 days after application of the first coat.
- Concrete paving standards will be established on a case by case basis, depending on terrain and anticipated traffic loads in the subdivision.
- b. In Type II Subdivisions, road surfacing shall consist of a minimum of six inch (6") thickness of base course-grade caliche or other road base material approved by Commissioners Court over a twelve inch (12") thick compacted subgrade.
- c. Adequate provision, in the form of swales, drainage pipes, culverts, or bridges, shall be made for crossing storm water drainage in all classes of subdivisions.
- d. In Large Parcel Voluntarily Platted Subdivisions, road surfacing requirements shall be the same as in Type II subdivisions.
- 5.6.2 Provision for Maintenance of Unpaved Roads.** Whenever a subdivision does not provide for paved roads, the subdivider shall make provision for the assumption of liability and perpetual maintenance of unpaved roads by the property owners and / or subdivider of the subdivision by private Deed Restrictions which shall be submitted concurrently with the plat and recorded concurrently with final approval of the plat.
- 5.6.3 Roadway Plans and Profiles.** Roads shall be designed in accordance with good engineering practice such that both their horizontal and vertical alignment provide adequate sight distance based on the anticipated speed of traffic. For all subdivisions, improvement plans for road construction shall show current topographic information with a minimum of two foot contour intervals based on field surveys or aerial photogrammetry.
- 5.6.4 Accommodation for Slopes.** Slope easement or street right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of a ratio of three to one (3:1), unless information is provided by a soils engineer indicating that the angle of repose of the soil may be steeper.
- 5.6.5 Improvements Required to Existing Roads.** Wherever lots being subdivided front on and gain access from existing roads, the Commissioners Court or Planning Commission may

require that such road frontage be improved in accordance with sections 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6.

Section 5.7: Private Roads

5.7.1 *Private Road Standards:* If any class subdivision proposes private roads, the design of such roads must meet the same standards as public roads, including review of improvement plans and inspection construction by the County Road and Bridge Superintendent.

5.7.2 *Provision for Maintenance.* Whenever Private roads are proposed for a subdivision, the subdivider shall make provision for the assumption of liability and perpetual maintenance of the private roads by means of private deed restrictions. Such deed restrictions shall be submitted for review concurrently with the submission of the final plat map for approval, and shall be recorded concurrently with the final recording of the subdivision plat.

Section 5.8: Blocks

5.8.1 Where blocks are provided, blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths except where blocks adjoin arterial streets, railroad rights-of-way or drainage ways.

5.8.2. The lengths, widths, and shapes of blocks shall be such as are appropriate for the type of development contemplated, but block lengths in Type I subdivisions shall not exceed fifteen hundred (1500) feet.

Section 5.9: Reserve Strips

The creation of reserve strips shall not be permitted adjacent to proposed streets in such a manner as to deny access from adjacent property to such street.

Section 5.10: Lot Access

5.10.1 *Frontage Required.* Each lot in a subdivision shall abut on an existing external dedicated or recorded public street or road or on an internal street meeting or exceeding the requirements of these specifications.

5.10.2 *Restricted Access May Be Required.* Where a subdivision borders on or contains an existing or proposed arterial street, access for residential lots from such streets may be limited by one of the following means:

a. The subdivision may be designed with double-frontage lots that back to the arterial street and front on a parallel local street; or,

b. The subdivision may be designed such that lots side to the arterial street and front onto intersecting local streets.

- c. In either instance, imposition of such limitations shall be in the discretion of the Commissioners Court or the Planning Commission, as appropriate.

Section 5.11: Lot Size Requirements

Lot size requirements are promulgated to protect the County's groundwater supplies from pollution, to conform with the Order of Brewster County, Texas for On-Site Sewage Facilities, adopted September 23, 1997, to conform with TNRCC Regulations, and to promote fire safety and protect emergency vehicle access.

5.11.1 *Lot Size Requirements:*

- a. In proposed subdivisions utilizing approved public water systems and on-site sewage disposal systems, the minimum lot size shall be one-half (1/2) acre in area; and,
- b. In proposed subdivisions utilizing non-public water systems and on-site sewage disposal systems, the minimum lot size shall be no less than one (1) acre.

5.11.2 *Lot Dimensions.* Minimum lot frontage shall be no less than 15 linear feet on lots in all classes of subdivisions.

Section 5.12: Easements

5.12.1 *Utility Easements.* Easements for utilities are required across parts of lots or along lot lines. The subdivider shall coordinate with utility service providers to determine the locations and widths of required easements. Evidence of such coordination will be required as a condition of subdivision plat approval. No Type I subdivision plat shall be approved until the subdivider has obtained a satisfactory agreement with utility service providers regarding utility easements. At minimum, utility service companies which must be consulted include electric service, telephone service and any water or wastewater district or other water utility which has jurisdiction in the area being subdivided.

5.12.2 *Privately owned Easements and Fee Strips.* In instances where easements have not been defined by accurate survey dimensions, such as "over and across" type easements, the subdivider shall request the owner of such easement to accurately define the limits and location of his easement through the property within the plat boundaries. If the holder of such undefined easement does not define the easement involved and indicates his refusal to define such easement to the County Engineer or Road & Bridge Superintendent, the subdivision plat must provide accurate information as to the centerline location of all existing pipelines or other utility facilities placed in conformance with the easement owner's rights.

A letter, statement, or other instrument from the owner of any privately owned easement, or fee strips within the plat boundaries must be provided where such easements or fee strip are proposed to be crossed by streets (either public or private) or public utility or drainage easements, stating that the owner of such easement or fee strip approves such crossing of

his/her private easements or fee strips for the purposes intended and depicted upon the plat.

Where an instrument of record is submitted in lieu of a letter or statement from the owner of any such private easement or fee strip, the County Engineer or Road & Bridge Superintendent shall then refer such instrument to the County Attorney for a determination as to whether the conditions in such instrument are sufficient to adequately provide or accommodate the crossings of such private easement or fee strip by the proposed streets (either public or private) or public utility or drainage easements depicted on the plat.

Section 5.13: Drainage

No Type I subdivision shall be approved which does not make adequate provision for storm water runoff. A drainage plan shall be prepared as part of the Type I subdivision improvement plans. No development in any type of subdivision will be permitted if it will result in an increase in the rate of flow of storm water and would thereby endanger downstream properties.

- 5.13.1 *Scope of Drainage Plan for Type I Subdivisions.* Drainage plans shall show the extent of all contributing watersheds that impact a subdivision. The subdivider's engineer shall calculate the potential runoff based on a 100 year return frequency storm. Both the peak flows and volumes of runoff will be calculated for all definable drainage courses.
- 5.13.2 *Design Storm Criteria.* Drainage structures, where required in any type subdivision, shall be designed to accommodate the runoff from a ten year return frequency storm, and to pass a one hundred year storm without damage.
- 5.13.3 *Drainage Structure Design.* Drainage structures in any type subdivision shall be designed to minimize maintenance requirements. Paved swales or culverts may be required where surface water crosses a roadway or intersection. The permitted rates of flow of storm water within swales adjoining roadways shall not endanger the public, nor shall the velocity of runoff cause scouring or other similar destructive erosion of the swale surface.
- 5.13.4 *Effect on Downstream Properties.* The Subdivider's engineer for Type I subdivision shall study the effect of the storm water runoff from the subdivision on properties downstream of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Commissioners Court may withhold approval of the subdivision until the subdivider makes provision to improve the off site drainage facility. If downstream drainage facilities are not available or are incapable of accommodating the increased storm water runoff, the County Engineer / Road & Bridge Superintendent may require storm water retention or detention basins to prevent an increase in storm water runoff.
- 5.13.5 *Areas of Poor Drainage.* The subdivision of an area which is subject to flooding may be approved by the Commissioners Court provided that the subdivider fills the affected area of said subdivision to an elevation sufficient to place the elevation of roads and finished floor elevation of structures to a minimum of twelve inches (12") above the elevation of the

expected water surface following a 100 year return frequency flood event.

- 5.13.6 *Deed Restrictions Required.* When on lot drainage is proposed for Type I subdivision, the developer will include a provision in deed restrictions to ensure that lot owners will not impede the flow of storm water onto their lots from adjoining streets, or otherwise alter their lots in a manner that would prevent storm water from draining onto their lots, or cause stormwater to drain onto a neighboring property. Deed restrictions shall also require that lot owners grade their lots so as to provide positive drainage away from buildings and septic tank drain fields. The subdivider will provide a copy of the proposed deed restrictions to the County Engineer or Road & Bridge Superintendent for review at the time the final plat map is submitted; said deed restrictions shall be recorded concurrently with the subdivision plat.

Section 5.14: Dedication of Drainage Easements

In all types of subdivisions where a subdivision is traversed by a natural or man made drainage course, there shall be provided a drainage easement or drainage right-of-way conforming substantially to the lines of such drainage course, and of such width and construction as will be adequate to convey the maximum potential area of flow storm water runoff and to permit access for maintenance.

- 5.14.1 Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least fifteen feet (15') in width for such drainage facilities shall be provided across property outside the road rights-of-way. Such drainage easements shall extend from a road right-of-way to a natural watercourse or to other drainage facilities.
- 5.14.2 Low-lying lands along natural drainage courses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be reserved and retained in their natural state as drainage ways. Where lands so affected are not included in drainage easements, a use restriction shall be made part of deed restrictions recorded with the subdivision plat.

Section 5.15: Flood Hazard Areas

If a subdivision or any portion thereof lies in an area that has been defined as a Flood Hazard Area, then that subdivision or portion of subdivision shall be constructed according to the regulations set forth by the National Flood Insurance Program as stated in the Federal Register Vol. 41, No. 207, as published January 26, 1988, and any amendments thereto. The Commissioners Court may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area, prohibit the subdivision and subsequent development of any land that lies within a Flood Hazard Area.

Section 5.16: Prohibition Against Removal of Soil Erosion and Flood Control Structures

In any classification of subdivision where there are existing spreader dams, tanks or other soil

erosion or flood control structures on property to be subdivided, and where removal of such structures would result in flooding or damage to downstream or adjacent property, such structures shall not be removed or altered without other adequate provision having been made for mitigation of such potential flooding or damage. Determination of what constitutes adequate mitigation shall be made by the County Road & Bridge Superintendent / County Engineer and approved by Commissioners Court. Where any lot in a Type I or Type II subdivision contains such a flood control structure, this prohibition shall be made part of appropriate deed restrictions.

ARTICLE 6 Street Naming and Signs

Section 6.1: Street Names

New streets and roads in Type I and Type II subdivisions shall be named so as to provide continuity of name with existing streets and so as to prevent conflict with identical or similar street and road names in other parts of Brewster County. Street names for new subdivision streets may be suggested by the subdivider. If these names are reasonable and are not similar to existing names of streets and roads in Brewster County, they will be presented to Commissioners Court for approval on a final plat. Suggested names shall be submitted to the County Road & Bridge Superintendent for preliminary approval prior to final submission to Commissioners Court.

Section 6.2: Signs Required

6.2.1 *Street and Road Name Signs.* Subdividers shall install street and road name signs at all street intersections in the subdivision. The proper installation of these signs is a part of the required construction standards of Brewster County, and signs will be inspected for approval prior to the release of the Construction Bond or other security.

Section 6.3.1 Street and Road Name Sign Standards

- 6.3.1 *Sign Assembly.* Street name sign assemblies shall be post-mounted with at least one assembly at each intersection of streets or roadways.
- 6.3.2 *Sign Faces.* Sign blanks shall be double-faced so as to indicate street names on both sides. They shall be a minimum of six (6") inches high and eighteen (18") inches to thirty (30") in length as needed to adequately space four inch (4") series "C" lettering. They shall be extruded metal blanks with anodized finish and covered with green reflective sheeting with silver (white) copy and optional three-eighths inch (3-8") silver (white) borders. Standard abbreviations for street suffixes shall be used. Periods, hyphens and other punctuation marks are not to be included on standard faces. Deviation from the size, color, and type of street signs required may be granted by Commissioners Court for good cause shown by the subdivider.
- 6.3.4 *Copy.* The copy of both letters and numbers shall be four inch (4") size series "C" stroke conforming to the *Standard Alphabet for Highway Signs Manual*. Block numbers, if applicable, shall be placed in the upper right-hand corner of the sign face.
- 6.3.5 *Mounting Hardware.* The hardware shall consist of two (2) standard cast aluminum street name sign brackets, one-post cap (lower) bracket for the more important roadway name and one crosspiece (upper) bracket for the more important roadway name. Bracket hardware shall lock securely to post and to sign blanks with Allen-type screws. Sign blanks shall be positioned when mounted so as to have their faces parallel to the roadway they name.

6.3.6 *Posts.* Posts shall be two inch (2") galvanized steel pipe of .065 minimum gauge securely set and tamped or cemented in place with the top of post seven feet (7') above the edge of the roadway surface.

6.3.7 *Placement.* Street Name Sign assemblies shall be placed on posts and located two feet (2') behind the curb on curbed roadways or six (6') to ten (10') feet beyond the edge of the pavement on non-curbed roadways. Street name sign assemblies shall be placed as near as possible to the tangent point of the edge of the less important roadway with the radius of the curve at the intersection.

Section 6.4: Installation of Signs

Street name signs shall be installed and inspected for placement no later than six (6) months after recording of a subdivision plat. The County Road & Bridge Superintendent / County Engineer may require installation of signs on main roads before this time, if deemed necessary for public safety.

Article 7
Water Systems and Wastewater Disposal

Section: 7.1: Type I Subdivisions: For water systems and waste water disposal Type I subdivisions, Brewster County has adopted the Economically Distressed Areas Program Model Subdivision Rules promulgated by the Texas Water Development Board. These regulations are found in Appendix A of these subdivision regulations and are incorporated herein by reference.

Section 7.2: Water Systems and Waste Water Disposal for Type II Subdivisions

7.2.1 Subdividers of Type II subdivisions who propose to supply drinking water by connecting to an existing central system must provide Commissioners Court a written agreement with that public water purveyor. The agreement must accommodate the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years.

7.2.2 Subdividers of Type II subdivisions who propose that water be supplied by individual wells on each tract shall provide Commissioners Court and include on or with the final plat a statement concerning location, production and water quality produced from any water wells existing at the time of final plat approval in the proposed subdivision, or if there are no existing wells in the proposed subdivision, a statement that there are no existing wells in the subdivision and that availability of water is unknown shall be included in the plat.

7.3: Wastewater Disposal in Type II Subdivisions

7.3.1 Subdividers in Type II subdivisions who propose to dispose of wastewater by connecting to an existing permitted facility shall produce a written agreement with that municipality, public water supply corporation or private provider. Engineering plans for the proposed wastewater collection lines must be approved by TNRCC.

7.3.2 Subdividers who propose to utilize on-site sewage disposal shall comply with the On Site Sewage Facility regulations of Brewster County, Texas, and all regulations of TNRCC regarding On-Site Sewage Facilities. Notice that sewage disposal is proposed to be by on-site sewage disposal shall be given to prospective purchasers in writing prior to the execution of any binding agreement or conveyance of any real estate from the subdivision, and shall be made a part of any deed restrictions.

Article 8

Financial Guarantees for Improvements

- Section 8.1:** For Type I Subdivisions, Brewster County adopts requirements for financial guarantees as set out in Economically Distressed Areas Program Model Subdivision Rules; incorporated by reference in these regulations in Appendix A.
- Section 8.2** For Type II Subdivisions, Commissioners Court may require reasonable financial guarantees for improvements in the form of a bond, irrevocable letters of credit or other alternative financial guarantee such as cash deposit which, in the discretion of Commissioners Court adequately guarantees completion of improvements.

APPENDIX

A-1
CHAPTER 364
MODEL SUBDIVISION RULES

SUBCHAPTER A. GENERAL PROVISIONS

§364.1. Scope of Chapter. This chapter contains model rules which the Texas Water Development Board (board) is required to adopt in accordance with Texas Water Code, §16.343. Before an application for financial assistance from Economically Distressed Areas Program as specified in Chapter 355, Subchapter B of this title or Chapter 363, Subchapter E of this title may be considered by the board, the applicant shall provide documentation satisfactory in form and in substance that the municipality, if applicable, and county in which the applicant is located has adopted the necessary orders, ordinances, or other rules that meet the requirements of the Model Subdivision Rules contained in Subchapter B of this chapter.

§364.2. Purpose. The model rules provide the criteria for assuring that an adequate supply of safe drinking water and adequate safe sewer facilities are available to residential areas in accordance with state standards established by the Texas Department of Health and the Texas Natural Resource Conservation Commission. The model rules prohibit the establishment of residential developments with lots of five acres or less without adequate water supply and sewer services, prohibit more than one single-family, detached dwelling to be located on each subdivision lot, and establish minimum setbacks to ensure proper operation of water supply and sewer services and to reduce the risk of fire hazards.

SUBCHAPTER B. MODEL RULES
DIVISION 1. GENERAL AND ADMINISTRATIVE PROVISIONS

§364.11. Authority and Scope of Rules. These rules are adopted by _____ 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 five acres or less intended for residential purposes. Lots of five 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.

§364.12. 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.

§364.13. Effective Date. These rules become effective on the ___ day of _____, _____.

§364.14. Repealer. Provisions of Order(s) Number ____, adopted on the ____ day of _____, ____, are hereby repealed, except as to such sections which are retained herein.

§364.15. 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 five acres or less intended for residential purposes must have a plat of the subdivision prepared. Lots of five 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.

§364.16. Supersession. These rules supersede any conflicting regulations of the county.

§364.17. 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.

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

- (1) Commissioners court (or court) - The commissioners court of _____ County, Texas.
- (2) County - _____ 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 five 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

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

§364.32. 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: 31 TAC §364.32(a)(1)

- (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.

§364.33. 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: 31 TAC §364.33(a)(2)

(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.

§364.34. 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.

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

§364.36. 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.

§364.37. 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

§364.51. Applications for Plat Approval.

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

§364.52. 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 §364.54 of this title, the schedule shall include the start dates and completion dates.

(1) Public water systems:

- (A) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1A and referenced in §364.32(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.
- (B) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the 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.

- (2) Non-public water systems. Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with §364.32 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 §364.32(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.
- (3) Organized sewerage facilities.
 - (A) Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1B and referenced in §364.33(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.
 - (B) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the 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.

- (4) On-site sewerage facilities. Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC §285.4(c), including the site evaluation described by 30 TAC §285.30 and all other information required by the county's OSSF order.

§364.53. 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.

§364.54. Financial Guarantees for Improvements.

- (a) **Applicability.** If an adequate public or non-public water system or sewerage facility is not available from a retail public utility, or are not constructed by the subdivider, to serve lots intended for residential purposes of five acres or less at the time final plat approval is sought, then the commissioners court shall require the owner of the subdivided tract to execute an agreement with the county in substantially the form attached in Appendix 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: 31 TAC §364.54(a)
- (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 this subchapter 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 institutions qualifications:
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and
 - (ii) the investment instrument must be registered in the county's name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (3) The letter of credit shall list as sole beneficiary the county judge of the county, in his official capacity, or the judge's successor in office, and must be approved by the county judge of the county. The form of the letter of credit shall be modeled after the form attached in Appendix 2B. Figure: 31 TAC §364.54(c)(3)
- (4) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Division 2 of this subchapter and upon construction of facilities within the time stated on the plat, or 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.

§364.55. 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 this subchapter.

- (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 this subchapter.

§364.56. 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 §364.54 are submitted which will be effective for the period of the extension; and
 - (2) the court finds the extension is reasonable and not contrary to the public interest.
- (b) Timeliness. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.
- (c) Unreasonableness. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Division 2 of this subchapter.

§364.57. 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 §§364.15(b) of this title (sale restrictions), 364.36 of this title (Setbacks), 364.37 of this title (Number of Dwellings per Lot), 364.52 of this title (Final Engineering Report), and 364.54 of this title (Financial Guarantees for Improvements) as applied to an individual subdivided lot if such approval is in harmony with the general purpose and intent of these rules so that the public health, safety, and welfare may be secured and substantial justice done.
- (1) Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.
 - (2) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the chapter, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the commissioners court may request to support the application, including:
 - (A) a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;
 - (B) the name and address of the original subdivider or the subdivider's authorized agent, if known;
 - (C) a survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and
 - (D) a deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.
 - (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

§364.71. 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.

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

SUBCHAPTER C. MODEL RULES (MUNICIPALITY)

DIVISION 1. MUNICIPALITIES WITH NO OTHER SUBDIVISION ORDINANCES

§364.80. Rules to be Adopted. Municipalities that have not adopted nor have in effect other comprehensive subdivision ordinances shall adopt the necessary ordinances to implement the requirements of the model rules set out in Subchapter B of this chapter with appropriate modifications to assure their applicability to developments within the municipality.

§364.81. Modifications. Municipalities adopting these model rules shall modify the provisions of Subchapter B of this chapter to change all references to "County" or county authority to be consistent with the identity and authority of the adopting entity. In particular, the following provisions shall be modified as indicated:

- (1) §364.11 (Authority) shall reflect the municipality authority contained in the Local Government Code, Chapter 212;
- (2) §364.15 (Plat Required) shall reflect application of the rules to the subdivision of a tract of land located within the corporate boundaries and the extraterritorial jurisdiction of the municipality;
- (3) §364.18 (Definitions) shall identify the municipality and its governing body; and
- (4) §364.72 (Enforcement Authority) shall reflect the enforcement authority of the municipality contained in the Local Government Code, §212.0175 and §212.018.

DIVISION 2. MUNICIPALITIES WITH EXISTING SUBDIVISION ORDINANCES

§364.90. Rules to be Adopted. Municipalities that have adopted and have in effect other

subdivision ordinances shall adopt and incorporate those requirements of the model rules set out in Subchapter B of this chapter which are necessary to make the existing ordinances consistent with the goal and intent of the model rules to provide minimum standards that assure adequate water supply and wastewater services to subdivisions within the municipality.

§364.91. Minimum Requirements. Subdivision ordinances adopted by a municipality must be reviewed and modified as necessary to incorporate the minimum standards contained in the model rules set out in Subchapter B of this chapter, including the following:

- (1) application of the ordinances to the subdivision of a tract of land within the corporate limits of the municipality into two or more lots of five acres or less intended for residential purposes;
- (2) preparation of a subdivision plat to be approved by the municipality and filed for record with the county clerk after approval;
- (3) water supply standards consistent with the standards developed by the commission and set out in 30 TAC Chapter 290.
- (4) prohibition of individual water wells or non-public water systems that do not meet the water quality standards developed by TNRCC and set out in 30 TAC §§290.103, 290.105, 290.106 and 290.110;
- (5) wastewater collection and disposal system standards consistent with the standards developed by TNRCC and set out in 30 TAC Chapters 305 and 317 and in Health and Safety Code, Chapter 366;
- (6) prohibition of pit privies, portable toilets, and on-site sewerage facilities that do not meet the wastewater treatment standards developed by TNRCC and set out in 30 TAC Chapter 285;
- (7) setback limitations consistent with local fire code requirements;
- (8) prohibition of more than one single family detached dwelling per subdivision lot;
- (9) preparation of an engineer's report consistent with §364.52 of this title; and
- (10) requirements for posting of a financial guarantee to assure completion of water supply and sewer service facilities required by the approved plat and consistent with this chapter.

APPENDIX 1A. SAMPLE FORM FOR WATER SERVICE AGREEMENT

AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED
SUBDIVISION

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

The Subdivider is _____,
who is the owner, or the authorized agent of the owner, of a tract of land in _____
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 _____ 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 _____ 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 _____, ____.

The Utility

By: _____

Printed Name: _____

Office or Position: _____

Date: _____

The Subdivider

By: _____

Printed Name: _____

Office or Position: _____

Date: _____

Brewster County, Texas
COMMISSIONERS COURT

Application for Preliminary Plat Approval

Please complete this form, in full: If you require additional space, please feel free to attach additional pages. Please type or print legibly. File completed forms in the Brewster County Clerk's Office.

Date _____

Proposed Subdivision Name: _____

1. Legal Description for the area included in the proposed plat (Tract, Block, Grant, etc.):

_____ Brewster County, Texas

2. Proposed Land Uses:

	No. Lots	Acreage	Smallest Lot	No. Dwellings
Single-family Residential	_____	_____	_____	_____
Multi-family Residential	_____	_____	_____	_____
Commercial	_____	_____	_____	_____
Industrial	_____	_____	_____	_____
Institutional	_____	_____	_____	_____
Park Space	_____	_____	_____	_____
Ponding & Drainage	_____	_____	_____	_____
Street & Rights-of-Way	_____	_____	_____	_____

Other (Specify below): _____

Total No. of Lots _____

Gross Acreage of Subdivision _____

3. What type of drainage is proposed?

4. What provisions will be made for providing potable water? If no provision for water will be made, please indicate.

5. What provisions will be made for providing electrical service? If no provision is made for electrical service, please indicate.

6. What type of wastewater disposal system is proposed? If individual on-site wastewater disposal is proposed, has an assessment been made of the suitability of the soil for this purpose?

7. Is a waiver requested of any portion of the Subdivision Regulations? Yes _____ No _____
If a waiver is being requested, please explain: _____

8. Owner of record Name _____ Telephone Number _____
Mailing Address _____ Zip _____

9. Developer Name _____ Telephone Number _____
Mailing Address _____ Zip _____

10. Surveyor Name _____ Telephone Number _____
Mailing Address _____ Zip _____

If Applicant is not the owner or developer, what is the relationship of Applicant to the owner, (e.g. attorney, designated representative, etc.)?

Signature of Applicant

Typed or Printed Name of Applicant

Mailing Address

Phones:

Home _____

Business _____

Fax _____

E Mail _____

Brewster County, Texas
COMMISSIONERS COURT
Application for Subdivision Final Plat Approval

Please complete this form, in full: If you require additional space, please feel free to attach additional pages. Please type or print legibly. File completed forms in the Brewster County Clerk's Office.

Date _____

Proposed Subdivision Name: _____

1. Legal Description for the area included in the proposed plat (Tract, Block, Grant, etc.):

Brewster County, Texas

2. Proposed Land Uses:

	No. Lots	Acreage	Smallest Lot	No. Dwellings
Single-family Residential	_____	_____	_____	_____
Multi-family Residential	_____	_____	_____	_____
Commercial	_____	_____	_____	_____
Industrial	_____	_____	_____	_____
Institutional	_____	_____	_____	_____
Park Space	_____	_____	_____	_____
Ponding & Drainage	_____	_____	_____	_____
Street & Rights-of-Way	_____	_____	_____	_____
Other (Specify below):	_____	_____	_____	_____
_____	_____	_____	_____	_____
Total number of Lots	_____			
Gross Acreage of Subdivision		_____		

3. Which of the following improvements have been installed as part of the subdivision's development?

- | | |
|------------------------------|--------------------------------------|
| A. _____ Lot Staking | G. _____ Water Distribution Lines |
| B. _____ Road Grading | H. _____ Water Treatment Plant |
| C. _____ Road Base | I. _____ Fire Hydrants |
| D. _____ Drainage Structures | J. _____ Water Treatment Plant |
| E. _____ Street Signs | K. _____ Electric Distribution Lines |
| F. _____ Water Well(s) | |

If any of the above improvements have not been installed, when will they be installed (if required)?

4. Specify the entities that will provide the following utility services: If any of the below services are not

to be provided, please indicate.

- A. Water Service: _____
- B. Wastewater Service: _____
- C. Electric Service: _____
- D. Telephone Service: _____
- E. Gas Service: _____

5. Owner of record Name _____ Telephone _____

Mailing Address _____ Zip _____

6. Developer Name _____ Telephone _____

Mailing Address _____ Zip _____

7. Surveyor Name _____ Telephone _____

Mailing Address _____ Zip _____

8. Engineer Name _____ Telephone _____

Mailing Address _____ Zip _____

Signature of Applicant

Typed or Printed Name of Applicant

Mailing Address

Phones:
Home _____

Business _____

Fax _____

E Mail _____

SUBDIVISION PLAT VACATION

THE STATE OF TEXAS }
COUNTY OF BREWSTER }

_____, being the owner of this portion of land described as _____, does hereby vacate the following portions of land:

Which plat was filed for record in the office of the County Clerk of Brewster County, Texas, on this ____ day of _____, _____, in Volume ____ Instrument Number ____ of the Plat records on Page _____.

WITNESS my hand in Alpine, Texas, this the ____ day of _____, _____.

Property Owner

THE STATE OF TEXAS }
COUNTY OF BREWSTER }

Before me, the undersigned, a Notary Public in and for said County and State, on this date

personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this ____ day of _____, _____.

Notary Public in and for
Brewster County, Texas

This instrument dated this _____ day of _____, signed by

_____, vacates the following portions of land:

This subdivision vacation is approved by the County Commissioners Court of the County of Brewster in accordance with Chapter 232 of the Texas Local Government Code this ____ day of _____, _____.

Notary Public in and for
Brewster County, Texas

This instrument dated this _____ day of _____, signed by

_____, vacates the following portions of land:

This subdivision vacation is approved by the County Commissioners Court of the County of Brewster in accordance with Chapter 232 of the Texas Local Government Code this _____ day of _____, _____.

Notary Public in and for
Brewster County, Texas

IRREVOCABLE LETTER OF CREDIT NO.

TO: Brewster County, Texas

DATE:

We hereby authorize you to draw at sight on _____ (Name & location of bank) for the account of _____ (Name of customer), up to the aggregate amount of (Dollars) _____ available by our draft, accompanied by a certification by the County Judge, the Director of Financial Services, the Assistant Director of Financial Services, The Director of the Office of Development Services, or any Assistant Director of the Office of Land Development Services that the following condition exists:

“A Condition of Draw exists under the Subdivision Construction Agreement dated, _____, _____ by and between Subdivider and the County of Brewster (the “Agreement”). Brewster County is in substantial compliance with the terms of said Agreement and has calculated the amount of this draft in accordance with the terms of the Agreement.”

Drafts must be drawn and presented by or on _____, _____ by the close of business of the Issuer of this credit and must specify the date and number of this credit. Drafts will be honored within five calendar days of presentment. We hereby engage all drawers that drafts drawn and presented in accordance with this credit shall be duly honored. Partial draws are permitted and the letter of credit shall be reduced by the amount of such partial draws as well as by and reduction letters authorized by the County. The sum of such partial draws shall on no account exceed the Stated Amount of this credit, and upon any draw or reduction letter which exhausts this credit, the original of this credit will be surrendered to us.

Except as expressly stated, this credit shall be subject to the Uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce (Publication No. 400).

This credit is irrevocable prior to its expiration date unless both parties consent to revocation in writing.

Address of Issuer:

_____ Issuer

_____ Officer

Signature,

Notice of Filing
Preliminary Plat Application
§4.2.3 Brewster County Subdivision Regulations

A preliminary plat was filed on _____ in the office of the Brewster
County Clerk. (Filing date)

1. The proposed subdivision is generally located: (cite nearest public roads, adjoining
subdivisions and other landmarks which will be helpful to the public in locating the subdivision)

2. A legal description of the area included in the proposed plat
is _____

3. The number of lots for the proposed subdivision is _____

The smallest lot in the proposed subdivision is _____ acres. The largest lot in
the proposed subdivision is _____ acres.

The preliminary plat may be reviewed in the Brewster County Clerk's office from 9:00-12:00
a.m., 1:00-5:00 p.m., Monday through Friday.

Comments regarding the plat may be made in writing to Brewster County, Box 1630, Alpine,
Texas, by contacting any County Commissioner directly or by appearance at the Commissioners
Court meeting at which the Preliminary Plan is scheduled to be reviewed and acted upon. For
information concerning meeting dates of Brewster County Court, call 837-2412. No subdivision
plat may receive final approval until it has been on file at least 30 days.