

TAKINGS IMPACT ASSESSMENT

Proposed Development Regulations – Wise County, Texas

PURPOSE AND INTENT

Wise County, Texas, acting through the Wise County Commissioners Court (hereafter “County”) is proposing to adopt new Development Ordinances (hereafter “Proposed Regulations”) for the County. The Proposed Regulations will include revisions and incorporate the requirements of the following existing regulations and ordinances:

- 2017 Amendments to The Wise County Subdivision Development Rules and Regulations (Adopted March 1997, Amended May 2000, May 2002, May 2005, December 2008 and September 2014)

The Proposed Regulations will include specification of County and Commissioners’ Court authority to define and implement its regulations along with definition of procedures and rules for implementation of site and subdivision land development projects within County jurisdictional areas including, but not limited to the following:

- Administrative Procedures and Requirements
- Preliminary Plat Requirements
- Final Plat and Construction Document Requirements
- Construction Procedures and Requirements
- Design Criteria
- Standard Construction Details

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

REGULATORY BACKGROUND

Governmental Takings in General

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

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

General Principles in the Law of Regulatory Takings

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

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

The Texas Real Property Rights Preservation Act

In response to widespread concerns about governmental intrusions on private real property rights in the mid-1990’s (sometimes referred to as the “Take Back Texas” movement), the Legislature enacted the Act which is codified in Chapter 2007 of the Texas Government Code (TGC).¹¹ The overriding purpose of the Act was to ensure that governmental entities in Texas take a “hard look” at the effects on private real property rights of the regulations they adopt.

Definition of a Regulatory Taking

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

- (a) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or
- (b) a governmental action that:
 - (1) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and

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

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

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

- (1) the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure;
- (2) an action that imposes a physical invasion or requires a dedication or exaction of private real property;
- (3) an action by a municipality that has effect in the extraterritorial jurisdiction of the municipality, excluding annexation, and that enacts or enforces an ordinance, rule, regulation, or plan that does not impose identical requirements or restrictions in the entire extraterritorial jurisdiction of the municipality; and
- (4) enforcement of a governmental action listed in Subdivisions (1)-(3), whether the enforcement of the governmental action is accomplished through the use of permitting, citations, orders, judicial or quasi-judicial proceedings, or other similar means.

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

Governmental Actions Exempted From the Act

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

- (1) an action by a municipality except as provided by subsection (a)(3);
- (2) a lawful forfeiture or seizure of contraband as defined by Article 59.01, Code of Criminal Procedure;
- (3) a lawful seizure of property as evidence of a crime or violation of law;
- (4) an action, including an action of a political subdivision, that is reasonably taken to fulfill an obligation mandated by federal law or an action of a political subdivision that is reasonably taken to fulfill an obligation mandated by state law;
- (5) the discontinuance or modification of a program or regulation that provides a unilateral expectation that does not rise to the level of a recognized interest in private real property;
- (6) an action taken to prohibit or restrict a condition or use of private real property if the governmental entity proves that the condition or use constitutes a public or private nuisance as defined by background principles of nuisance and property law of this state;

- (7) an action taken out of a reasonable good faith belief that the action is necessary to prevent a grave and immediate threat to life or property;
- (8) a formal exercise of the power of eminent domain;
- (9) an action taken under a state mandate to prevent waste of oil and gas, protect correlative rights of owners of interests in oil or gas, or prevent pollution related to oil and gas activities;
- (10) a rule or proclamation adopted for the purpose of regulating water safety, hunting, fishing, or control of nonindigenous or exotic aquatic resources;
- (11) an action taken by a political subdivision:
 - (A) to regulate construction in an area designated under law as a floodplain;
 - (B) to regulate on-site sewage facilities;
 - (C) under the political subdivision's statutory authority to prevent waste or protect rights of owners of interest in groundwater; or
 - (D) to prevent subsidence;
- (12) the appraisal of property for purposes of ad valorem taxation;
- (13) an action that:
 - (A) is taken in response to a real and substantial threat to public health and safety;
 - (B) is designed to significantly advance the health and safety purpose; and
 - (C) does not impose a greater burden than is necessary to achieve the health and safety purpose; or
- (14) an action or rulemaking undertaken by the Public Utility Commission of Texas to order or require the location or placement of telecommunications equipment owned by another party on the premises of a certificated local exchange company.

Based on the types of actions anticipated under the Proposed Regulations, Wise County believes that actions included in the Proposed Regulations are exempt or have “No Private Real Property Impact” (**NoPRPI**). In this TIA, Wise County will provide the analysis of the conclusions.

Lawsuit to Invalidate a Governmental Taking

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

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

EVALUATION PROCESS

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

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

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

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

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

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

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

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

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

Based on the County's review of the Act, the actions included in the Proposed Regulations do not result in the imposition of a burden on "Private Real Property" as that term is defined in the Act. Therefore, Question 3 is answered as a qualified "NO", and therefore "No Private Real Property Impact" or NoPRPI

Taking Impact Assessment Proposed Amendments to the Wise County Development Rules and Regulations
*Determination should be made. No further compliance with the Act is necessary if a NoPRPI
Determinations is made.*

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

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

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

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

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

None of the actions determined to be Covered Governmental Actions imposed a burden on "Private Real Property" as that term is defined in the Act. If those actions had been determined to be both a Covered Governmental Action and which imposed a burden on "Private Real Property" it could have been further evaluated using Questions 4 through 7 in the TIA. The Office of Attorney General guidance also provides the following sub-questions for items determined to be Covered Governmental Actions:

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

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

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

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

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

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

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

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

SUMMARY OF THE PROPOSED REGULATIONS

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

Actions in the Proposed Regulations Determined to Not Be “Covered Governmental Actions” (“No “to OAG Question 2)”**1. Regulation of Certain Private Roadways**

Under the County’s authority to regulate the subdivision of property provided in TLGC Chapter 232, the County is proposing requirements for regulating certain private roadways. The proposed actions are outlined in Amendment No. 1 of the Proposed Regulations, specifically in Section 6.06. (B) and (E). The proposed actions are intended to ensure unrestricted access to all areas of new subdivisions by emergency vehicles. The County is proposing these actions, specifically, to address situations where width restrictions, obstructions, and roadway conditions may prevent timely emergency response activities. The County believes that delays in timely emergency response caused by impassable private roadways constitute a “grave and immediate threat” to life and property. Based on this belief, the County further believes that the proposed actions were developed in “good faith” to prevent delays in timely emergency response. As such, the proposed actions were determined to be exempted from the Act in accordance with TGC §2007.003(b)(7) due to the County’s intent to prevent grave and immediate threats to life or property. Based on this exemption, these proposed actions are not subject to the requirement to prepare a TIA.

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

The County’s existing subdivision regulations contain certain requirements for roadway right-of-way widths. Under the County’s authority to regulate the subdivision of property provided in TLGC Chapter 232, the County is proposing to adopt requirements for the provision of minimum right-of-way widths for new Public Roadways. The proposed actions are outlined in Article 6 of the Proposed Regulations, specifically, Section 6.06 (E). The proposed actions are intended to ensure that new roadways provide adequate right-of-way to comply with the latest engineering design standards for safe travel over public roadways. The County believes that adequate roadway right-of-way widths may contribute to a real and substantial threat to public safety, and is proposing the changes to the right-of-way widths to improve public safety, but is limiting those changes to only those necessary to accomplish the public safety purpose. Based on this belief, the County further believes that the proposed actions do not impose a burden greater than that necessary to accomplish this purpose. As such, the proposed actions were determined to be exempted from the Act in accordance with TGC §2007.003(b)(13) due to the County’s intent to address public safety concerns. Based on this exemption, these proposed actions are not subject to the requirement to prepare a TIA.

3. Modifications to the Flood Damage Prevention Standards

Under the County’s authority under the Texas Water Code, Chapter 16, the County is proposing additional requirements for regulating development in flood hazard areas. The proposed actions are outlined in the Wise County Flood Damage Prevention Ordinance and incorporated into the proposed Regulations in Section 6.08(B). The proposed actions were determined to be exempted from the Act in accordance with TGC §2007.003(b)(11)(A)(D) due 22 TWC, Title 2, “Water

Taking Impact Assessment Proposed Amendments to the Wise County Development Rules and Regulations Administration”, Chapter 16, “Provisions Generally Applicable to Water Development”, as amended through the 80th Regular Legislative Session, Legislature of the State of Texas. Their inclusion in the County’s regulation of construction in floodplains is exempted and is not subject to the requirement to prepare a TIA.

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

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

Under the County’s authority to regulate various aspects of land development as authorized under various chapters of the Texas Local Government Code, the County is proposing changes and additions to the administrative procedures, fee schedule increase to cover costs, applications processing procedures, and procedures to be utilized by the County in the regulation of development within the County. (Found in Sections 2.02 and 2.05) While these proposed actions affect the information to be prepared and submitted to the County, and how the County will apply the Proposed Regulations, the administrative procedures themselves do not create a “burden” per se on “Private Real Property”, as that term is defined in the Act, being regulated by the Proposed Regulations. As outlined in the guidance from the OAG:

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

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

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

Based on the evaluation conducted by the County the proposed actions and amendments do not place a “burden” on Private Real Property. Therefore, further evaluation is not needed, but for information purposes the explanation is presented in the following section:

TAKING IMPACT ASSESSMENT FOR THE QUALIFYING ACTIONS

Impacts of Development Regulation in General

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

Moreover, in a recent U.S. Supreme Court case on regulatory takings, the Court was faced with the question of whether a temporary moratorium on all development around Lake Tahoe constituted a regulatory taking per se. The Supreme Court held that such a moratorium did not constitute a per se taking and that various factors must be analyzed to determine whether a moratorium constitutes a taking. In so ruling, the Court referred to a set of Lake Tahoe water quality protection ordinances enacted in 1972

Taking Impact Assessment Proposed Amendments to the Wise County Development Rules and Regulations which restricted impervious cover and established setback limits. These measures preceded the establishment of the development moratorium at issue in the case. Since the moratorium was held not to be a per se regulatory taking, it is very doubtful that traditional development regulations would be considered a regulatory taking if crafted to accomplish their stated purpose while still allowing the landowner to reasonably use and enjoy his property.

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

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

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

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

None of the proposed actions have been determined to be “Covered Governmental Actions” that may place a “burden” on Private Real Property.

Conclusion: The County’s Proposed Amendments do not constitute a Regulatory taking and all other rules have been addressed in 2014 Taking Impact Assessment.

Appendix Amendment No. 1

The following sections shall be revised to read as follows:

Section 2.02 Fee Schedule

Prior to the consideration and/or the approval of any Plat submitted to the Commissioner's Court, all applicable fees shall be paid by the Developer to the County Treasurer and a receipt or receipts shall be included with the submittal. The following fees have been established by the County to defray all costs associated with but not limited to the review, inspection, and maintenance of all plats and documents associated with the development of a subdivision or any part thereof. These fees shall become effective with the passage of this Court Order and will affect all subdivisions not finally approved by the Commissioner's Court prior to such passage. When the Plat is filed, a separate filing fee will be assessed at the time of filing.

1. Preliminary Plat	\$800.00 + \$100.00 \$25.00 per lot
2. Final Plat and Construction plans with roads	\$800.00 \$1,200.00 + \$75.00 per lot
3. Final Plat without roads	\$750.00
4. Preliminary or Final Plat Resubmittal	\$200.00 per each plat resubmittal in excess of three (3) submittals
5. Construction Inspection	\$2,000.00 for up to the first one (1) mile (5,280 LF) of road + \$150.00 per one-half (½) mile (2,640 LF), or portion thereof, in excess of 1 mile
6. Additional Final Construction Inspection	\$500.00 per visit in excess of two (2) visits related to final inspection of improvements
7. Plat Amendment	\$300.00
8. Plat Cancellation	\$200.00
9. Replat with no change in infrastructure	\$200.00 + \$20.00 per lot in excess of 5 lots
10. Replat with change in infrastructure	\$1,200.00
11. Request for variance	\$200.00 per each
12. Request for Preliminary Plat extension	\$200.00 per each

Subdivisions submitted for approval in portions or phases shall pay fees for each portion or phase as each phase is submitted for review.

Fees associated with Construction Inspection must be paid prior to acceptance of the Construction Plans by the Commissioner's Court. Additional Final Construction Inspection fees must be paid prior to filing of the Plat.

Section 2.05 Wise County Contacts

~~For information regarding the platting process, please contact the County Judge's Office: All correspondence relating to a plat submittal must be submitted to both the County Judge and the County Consulting Engineer. Contact the County Judge for the County Consulting Engineer's contact information.~~

Wise County Judge:
Mailing Address
P.O. Box 393
Decatur, Texas 76234
Phone (940) 627-5743
Fax (940) 627-6926
~~countyjudge@co.wise.tx.us~~ cojudge@co.wise.tx.us

Precinct Commissioner's contact information is as follows: For information regarding the platting process, please contact the County Consulting Engineer or the Precinct Commissioner in which the development is proposed:

Wise County Commissioner Precinct 1:
Mailing Address
P.O. Box 899
Decatur, Texas 76234
Barn (940) 627-5810 (Decatur)
comm1@co.wise.tx.us

Wise County Commissioner Precinct 2:
Mailing Address
P.O. Box 899
Decatur, Texas 76234
Barn (940) 427-4881 (Alvord)
comm2@co.wise.tx.us

Wise County Commissioner Precinct 3:
Mailing Address
P.O. Box 899
Decatur, Texas 76234
Barn (940) 433-5365 (Boyd)
comm3@co.wise.tx.us

Wise County Commissioner Precinct 4:
Mailing Address
P.O. Box 899
Decatur, Texas 76234
Barn (940) 683-4153 (Bridgeport)
comm4@co.wise.tx.us

For technical questions related to platting, please contact the County Engineer:

Wise County Engineer:
Mailing and Physical Address
~~206 South State Street, Suite B~~ 2901 FM 51 South, Building 200
Decatur, Texas 76234
(940) 627-2342
engineer@co.wise.tx.us

All correspondence relating to a plat submittal must be submitted to the County Consulting Engineer. Contact the County Judge's Office for the County Consulting Engineer's contact information.

Fees for subdivisions review and inspection can be paid to the County Treasurer. Additional copies of the Wise County Development Rules and Regulations can be purchased from the County Treasurer.

Wise County Treasurer:
Physical Address
207 North Church Street
Decatur, Texas
(940) 627-3540
treasurer@co.wise.tx.us

Mailing Address
P.O. Box 554
Decatur, Texas 76234

For information regarding On-Site Sewage Facilities in Wise County, please contact Public Works.

Wise County Public Works:

Physical Address

2901 FM 51 South, Building 100

Decatur, Texas 76234

Phone ~~(940) 627-6655~~ (940) 627-9332

Fax (940) 627-6171

publicworks@co.wise.tx.us

Mailing Address

P.O. Box 899

Decatur, Texas 76234

For information regarding 911 addressing, please contact the County 911 Addressing Coordinator.

911 Addressing Coordinator:

Physical Address

~~206 South State Street, Suite C~~ 2901 FM 51 South, Building 100

Decatur, Texas 76234

~~(940) 627-3051~~ (940) 627-9332

911addressing@co.wise.tx.us

Section 6.06 Roads

B. General Requirements

11. For developments containing interior roads or containing cul-de-sacs serving greater than 25 lots, more than one road for entry and exit shall be provided.

E. Road Design Criteria General Provisions

1. All dedicated roads shall conform to the following:

Road Classification	Designation	Minimum Right-of-way	Minimum Pavement Width	No. of Lanes and Width	Shoulder	Median Width
Arterial	M4D	100'	2-26'	2-12' & 2-14'	None	28'
	M4U	68'	48'	4-12'	None	None
	M5U	80'	60'	5-12'	None	None
Collector	C	60'	40'	2-12' & 2-8'	2-8'	None
County Road	CR	60'	26' <u>24'</u>	2-13' <u>2-12'</u>	4'	None

F. Pavement Types

The roadway subgrade, base and driving surface shall be as designed by the engineer of record. The following are minimum design parameters:

1. Subgrade

The subgrade shall be scarified to a depth of at least six (6) inches, and compacted to 95 percent standard proctor density.

2. Base

After preparation of the subgrade, it shall be covered with at least eight (8) inches of Type A, Grade 1, flexible base material meeting the Texas Department of Transportation's standard specifications and compacted to 95 percent standard proctor density.

3. Driving Surface

The driving surface must be two (2) inches of hot mix asphaltic concrete over a one-course surface treatment.

a. One-Course Surface Treatment

The finished flexible base roadway shall be primed for one-course surface treatment in accordance with the manufacturer's recommendations and as approved by the County Engineer. There shall be a 72-hour (plus or minus) cure time between the oil primer and the asphalt application. The one-course surface treatment shall be AC-10 asphalt and shall be applied at a minimum rate of 0.45 (plus or minus) gallons per square yard. The crushed aggregate shall be Type B, Grade 3 at a rate of 96 (plus or minus) square yards per cubic yard. Application and gradations shall conform to the Texas Department of Transportation's standard specifications.

b. Two-Inch Hot Mix Asphaltic Concrete

Two-inches of Type D hot mix asphaltic concrete shall be applied over the one-course surface treatment and compacted to 91% to 95% of the maximum theoretical specific gravity. The finished one-course surface treatment roadway shall receive an appropriate tack coat to bond the surface treatment and hot mix asphaltic concrete. All applications shall conform to the Texas Department of Transportation's standard specifications.

Section 6.08 Drainage and Storm Sewer

B. Runoff Calculations

4. A downstream assessment may be required to be performed at the direction of the County Consulting Engineer. Depending upon project and site specific conditions, as well as downstream facilities, the developer may be required to provide a narrative and detailed calculations demonstrating the degree of downstream impacts. If any portion of the development lies within the 100-year flood plain (including any non-FEMA 100-year inundation area), a downstream assessment will be required to be performed and must meet the requirements of this section in addition to requirements set forth in the Flood Damage Prevention Ordinance. When required, a downstream assessment may include:

- a. Determination of the water surface elevation (headwater) of existing and proposed culverts with calculations provided to demonstrate the following:
- i. Velocities associated with pre- and post- developed runoff rates.

- ii. Post-developed velocities shall, at no time, cause anticipated erosion issues given the slope, soil conditions, vegetative cover, and velocities.
- iii. Generally, channel velocities shall not exceed the maximum permissible velocity of eight (8) feet per second for channels proposed to be left in their natural state, and meet the following parameters.
 - a) No significant increases (maximum 5%) in channel velocities for the 100-year design storm. Post development channel velocities cannot be increased by more than 5% above pre-development velocities.
 - b) If existing channel velocities exceed eight (8) feet per second, no additional increase in velocities will be allowed.
- b. Finished floor elevations shall be set a minimum of two (2) feet above base flood elevations. If a base flood elevation does not exist, finished floor elevations shall be set a minimum of two (2) feet above the 100-year water surface elevation.
- c. No increases in downstream discharges caused by the proposed development that, in combination with existing discharges, exceeds the existing capacity of the adjacent downstream drainage structures.
- d. No significant rise (0.1' or less) in 100-year flood elevations, unless contained in existing channel, ~~roadway, drainage easement and/or R.O.W.~~
- e. No new or increased flooding of existing insurable (FEMA) structures (habitable buildings) or private property.

In all situations, the Standard of Care and Standard Engineering Practices as it relates to downstream impacts shall be adhered to and shall be subject to the County Consulting Engineer's review. The intent of the downstream assessment is to analyze the pre-project and post-project hydrologic and hydraulic conditions to ensure that post-developed runoff is conveyed downstream in an acceptable manner to be reviewed by the County Consulting Engineer. At no time shall the post-developed runoff cause flooding to insurable structures or threaten the public's health, safety, and welfare. All downstream assessments shall take into consideration fully developed watersheds (assuming a minimum land use type of single family). If in the opinion of the County Consulting Engineer, the post-project runoff causes adverse impacts, onsite detention may be required. Innovative approaches to routing and detention may be considered in order to reduce the peak discharge values.

- 3. Pre-Development and Post-Development runoff computations shall be provided. Post-Development runoff computations shall be based upon fully developed watershed conditions. The Design Engineer shall size drainage facilities by disregarding the detention effects of upstream property and calculating the runoff as if the off-site property was developed without any detention. If an approved regional detention/retention facility is in operation, the Design Engineer may size downstream drainage facilities based on consideration of the detention effects of the regional facility.

ARTICLE 9. CONSTRUCTION STANDARDS

Detail Sheet 1

Replace Detail No. 1 - Typical Roadway Section Borrow Ditches with the attached Detail No. 1 Dated January 2017.

Adopted and Approved on _____ of _____, 2017

Honorable J.D. Clark
Wise County Judge

Danny White, Commissioner
Precinct 1

Kevin Burns, Commissioner
Precinct 2

Harry Lamance, Commissioner
Precinct 3

Gaylord Kennedy, Commissioner
Precinct 4

Attest

Sherry Lemon
Wise County Clerk