City of Killeen
Future Land Use Plan

August 2005

Prepared for:

City of Killeen
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Appendix Exhibits

1. Acknowledgements

Carter & Burgess and the City of Killeen especially thank the following people for their dedication to their community and the Killeen Future Land Use Plan:

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Maureen J. Jouett, Mayor

Dan Corbin, Council Member
Scott Cosper, Council Member
Timothy Hancock, Mayor Pro-Tem
Fred Latham, Council Member
Eddie Vale, Council Member
Member, Ad Hoc SH 195/SH 201 Land Use Committee
Ernest Wilkerson, Council Member
Member, Ad Hoc SH 195/SH 201 Land Use Committee
Dick Young, Council Member
Chair, Ad Hoc SH 195/SH 201 Land Use Committee

City Administration

Connie Green, City Manager
Don Christian, Assistant City Manager
Bruce Butscher, Director of Public Works

Planning and Zoning Commission

Larry Cole, Chairman
Member, Ad Hoc SH 195/SH 201 Land Use Committee
Johnny Frederick, Vice Chairman
Eugene Kim
Bobby Lee Hoover
Craig Langford

Miguel Diaz, Jr.

Walter Autry

Robert Hicks, Sr.

Terry Traina

Citizens of Killeen

Tony & Kathy Alonzo
Bryan Arn (sp?)
Michael P. Atamian
Rhonda Boggs
Mr. & Mrs. Wilbert T. Bryant
Joe & Dorothy Button
Chris Butler
Dave & Dorothy Conder
Gerald Corn
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Hortencia Cuellar
Dylan & Candy Denley
Payton & Zora Duncan
Robbie Dunivan
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Patricia Rocha
Marvin Siegrid
James Whetston
Curtis & Nina Wolf
Lee Young Won

University Representatives
Dan Buchley, Director of Real Estate

Texas Veterans Land Board
Jack R. Slayton
Jason Nezamabadi

Fort Hood Representatives
John Burrow
James Livingston
Robert Ulrigg

A number of City staff played key roles in the completion of the Killeen Future Land Use Plan:

Thomas Dann, Director of Planning
Andrew Allemand, Senior Planner
Robert Ratliff, Senior CADD/GIS Technician

2. Executive Summary

The SH 195/SH 201 Land Use Plan (LUP) addresses a high growth corridor within the City of Killeen. The Study Area spans 1500' to both sides of SH 195 and SH 201. The Study Area associated with SH 195 starts with the SH 195/Chaparral Road intersection and runs northward to Stan Schlueter Loop (FM 3470). The limits associated with SH 201 run from the SH 195/SH 201 intersection westward and northward to Highway 190. The 1500' dimension was determined prior to beginning the study and covers the depth of large commercial developments, plus associated collector roadways, that front onto either SH 195 or SH 201.

The Study Area has a number of major Land Use Influences that affect the direction of the future growth. These in turn lead to reasonable conclusions based upon planning experience and growth as currently experienced by the City. Those influences and conclusions include:

- Existing City Edges and General Growth Patterns
  - The Fort Hood Military Reservation boundary and the City Limits of Harker Heights form edges that push development south and east.
  - Three of the Influences listed below can act as catalysts to development, and are located in the Study Area.

- Killeen/Fort Hood Regional Airport
  - This facility represents a large investment by the community itself.
  - The Airport use tends to promote commercial and industrial uses nearby from an economic development perspective, and be less desirable for residential uses due to potential noise.
  - A second runway is being considered in close proximity to the existing runway, which in turn affects potential land uses within the Study Area.
  - The more appropriate land uses in close proximity to the Airport is industrial and commercial uses. However, the plan recognizes that residential uses may evolve, and these are permissible if avigation easements are put in place over the residential properties.

- SH 195/SH 201 Interchange
  - This interchange has the potential to be a major gateway to the City on SH 195.
  - As a land use influence, the interchange will tend to draw destination and capture commercial uses such as retail establishments.
  - Care should be taken to insure that quality development is promoted for this commercial node

- Future University
  - The Future University will be a large driver of development on those parcels in close proximity to it. Given the significant investment of political capital and effort that the overall community has put into attracting the Future University, development that complements the Future University should be promoted.

- Texas Veterans Cemetery
  - The Cemetery is not an obtrusive land use, but the dignity and character of such a place should be respected.
  - Industrial uses of any kind in the area around the Cemetery should be discouraged.

- Fort Hood Military Reservation
  - Fort Hood forms a unique hard edge to the urban growth of Killeen. Together with the Harker Heights city limits to the east, these edges force the growth of Killeen to the southeast and south.
  - Based upon the "encroachment" issues raised by Fort Hood, it is clear that the City needs to not promote land uses that endanger the operations at the Fort.

An orderly process was followed to generate the LUP. The process had 4 major steps:

- Inventory & Analysis (completed by April 7, 2005)
- Public Meeting (held on April 7, 2005)
- Preliminary Plan (reviewed by City Staff and the Land Use Committee on June 15, 2005)
- Final Plan and Adoption (Planning & Zoning Commission Hearing on August 15, 2005, and City Council Meeting on August 23, 2005)

Meetings with key stakeholders in the project were held to gain insight into future plans and complementary land uses. Those key stakeholders include representatives from Fort Hood, representatives from the Future University, representatives from the Texas Veterans Land Board, local developers, property owners, and local residents.

The LUP Recommendations are an extension of the Inventory and Analysis, input received during the process, and conclusions regarding the major land use influences. The Recommendations may be enacted in whole or in part by the City. Some of the Recommendations require further study and action by the City before they can be implemented.

- Commercial, industrial, residential, and aviation land uses are shown on the LUP Graphic, as well as other recommendations such as alternative transportation connections to the Future University.
  - The Study Area along SH 201 from the SH 195 intersection westward and northward to Stan Schlueter Loop is designated as commercial or industrial uses.
  - The roadway frontage within the balance of the Study Area is designated as commercial to a depth of 300' to 500', or as modified by the City Council on a case by case basis.
  - Residential uses are proposed behind the commercial uses.
  - Industrial uses are proposed in the immediate locale surrounding the Airport.

- An overlay zoning district is recommended for the Study Area surrounding the Future University, Veterans Cemetery, and Airport. Such a district restricts adverse land uses that can decrease the function and desirability of these major community investments.

- The major thoroughfares in the Study Area were reviewed for continuity, and the proposed recommendations are shown on the LUP Graphic. These recommendations form a network and hierarchy for future development of this area.

- Two options exist for addressing Reese Creek Road. The first option for the road is to remain in place, and should be maintained by the City. This would require transferring maintenance responsibility of the roadway to the City from the County. The second option is to abandon the roadway and allow development of a similar roadway alignment that allows property frontage on both sides further north. Abandoning the roadway would be a County responsibility, and one that the County Commission is willing to do.[1]

- The City should mitigate anticipated impacts from the TxDOT Management Criteria. Options include a parallel collector roadway offset approximately 500' from the State roadway, a mandatory continuous cross-access easement through commercial property parking lots, and continuity between local residential streets.

- The City does not want to impede the mission of Fort Hood, and wants to assist them in the proactive management of their encroachment issues. Fort Hood has been involved informally in the City development review process, and both the City and Fort Hood want to continue that involvement, as long as the City can continue to comply with the State Local Government Code.

- Avigation easements for new residential developments are recommended, as part of the specific requests from Fort Hood as mentioned above. Part of the specific request should include flight corridor designations so that the area for the avigation easement requirement can be limited.

3. Process

3.1. Purpose

In its ongoing legislative responsibility to regulate development, the City of Killeen needed to adopt a future land use plan (LUP) that illustrates a desired pattern for development based upon existing, planned, and anticipated major improvements. This LUP is not intended to dictate the development market conditions, but is intended to guide the types the development within the Study Area. The goal is to provide compatible and complementary land uses for major public institutions such as the Killeen/Fort Hood Regional Airport, a major state university, and the SH 195 and SH 201 interchange.

The LUP provides direction for future development, using a series of broad categories. The LUP is not a zoning district plan, although the Local Government Code of the State of Texas stipulates that City zoning/rezoning be done according to an adopted land use plan. A zoning district plan has specific guidelines relating to development type and density, while the LUP only issues broad recommendations for development types. After City adoption of the LUP, regulations for current land uses will not change, and the existing zoning district designations remain in place until a new use of the property requires a rezoning. This is the same process that exists within the current City code before the LUP adoption.

[1] Testimony in front of the Land Use Committee by County Commissioner John Fisher, August 4, 2005.

In this fashion, this does not saddle the existing property owners with new land use regulations such as restrictions on livestock. Such uses can continue.

Further, the LUP does not change the City's existing zoning map. The LUP will be implemented slowly over time, as market forces work to develop the area into either residential, commercial, office, or industrial uses. Some properties may remain just as they are, as the owners may not desire to sell them for development. As a property is sold for development, however, the proposed development type(s) should fall within the broad categories shown in the LUP, and the tract should be rezoned to a correlating zoning category.

3.2. *Plan Adoption and Powers*

The LUP will be reviewed by the Planning and Zoning Board (P&Z), and then considered as a ordinance by City Council[2]. Amendments to the LUP can be brought before the City by either a citizen, elected official, or employee of the City of Killeen. Such amendments should state the applicant's reason(s) for submitting the recommended amendment, and the proposed amendment shall be reviewed by the Planning and Zoning Commission. The City Council may approve an amendment by ordinance following a public hearing at which the public is given an opportunity to give testimony and present written evidence.

The LUP is empowered to direct types of development (commercial, residential, industrial). Future rezoning cases within the Study Area will need to be in accordance with the LUP. If a rezoning case's proposal is inconsistent with the LUP, the LUP will have to be altered by P&Z review/recommendation and City Council Ordinance. This LUP shall not constitute zoning regulations or establish zoning district boundaries.[3]

The LUP does not relieve developers/property owners from the responsibility to comply with all other applicable governmental regulations, instructions, codes, resolutions, and ordinances of the City. In those instances where existing regulations and this LUP conflict, the more stringent shall control.

All other LUP's that apply to this Study Area are superceded by this document and its ancillary maps.

3.3. *LUP Adopted July 12, 2005, Ordinance No.05-51*

This LUP, known in this Report as the "interim LUP", restricts non-residential uses to a maximum height of 35', establishes an area where this "interim LUP" applies, and requires avigation easements for all developments within the area where this "interim LUP" applies. The "interim LUP" was prepared as a response to the revelation that a 2nd runway is being considered for the Fort Hood/Killeen Regional Airport. The Airport is a joint-use, civilian and military airport, described in Section 4.2. The 2nd runway will be relatively close to the existing runway, and will be needed for the Airport to continue functioning as intended. Therefore, the "interim LUP" was prepared to provide minimum protections until such time that the 2nd runway location is identified, and therefore limited land uses to nonresidential. Once the 2nd runway has been studied and it's associate flight corridors identified, then the LUP can be modified in response.

[2] Texas Local Government Code, Chapter 213.
[3] Texas Local Government Code, Chapter 213.

The LUP which is the subject of this document incorporates the provisions of the "interim LUP," and is considered a controlling amendment to replace the "interim LUP." The LUP adopts all of Section 1 of the "interim LUP," specifically listed as following:

"Section I: This Land Use Plan shall apply to privately owned property located along the State Highway 201 corridor as identified in this section, within the current or future corporate limits of the City of Killeen and undeveloped as of the date of this ordinance.

(a) Development shall be limited to non-residential commercial and industrial uses not to exceed a height of thirty-five (35) feet.

(b) The impact of institutional and manufacturing uses shall be evaluated and approved by City Council on a case by case basis prior to the approval of a building or development permit.

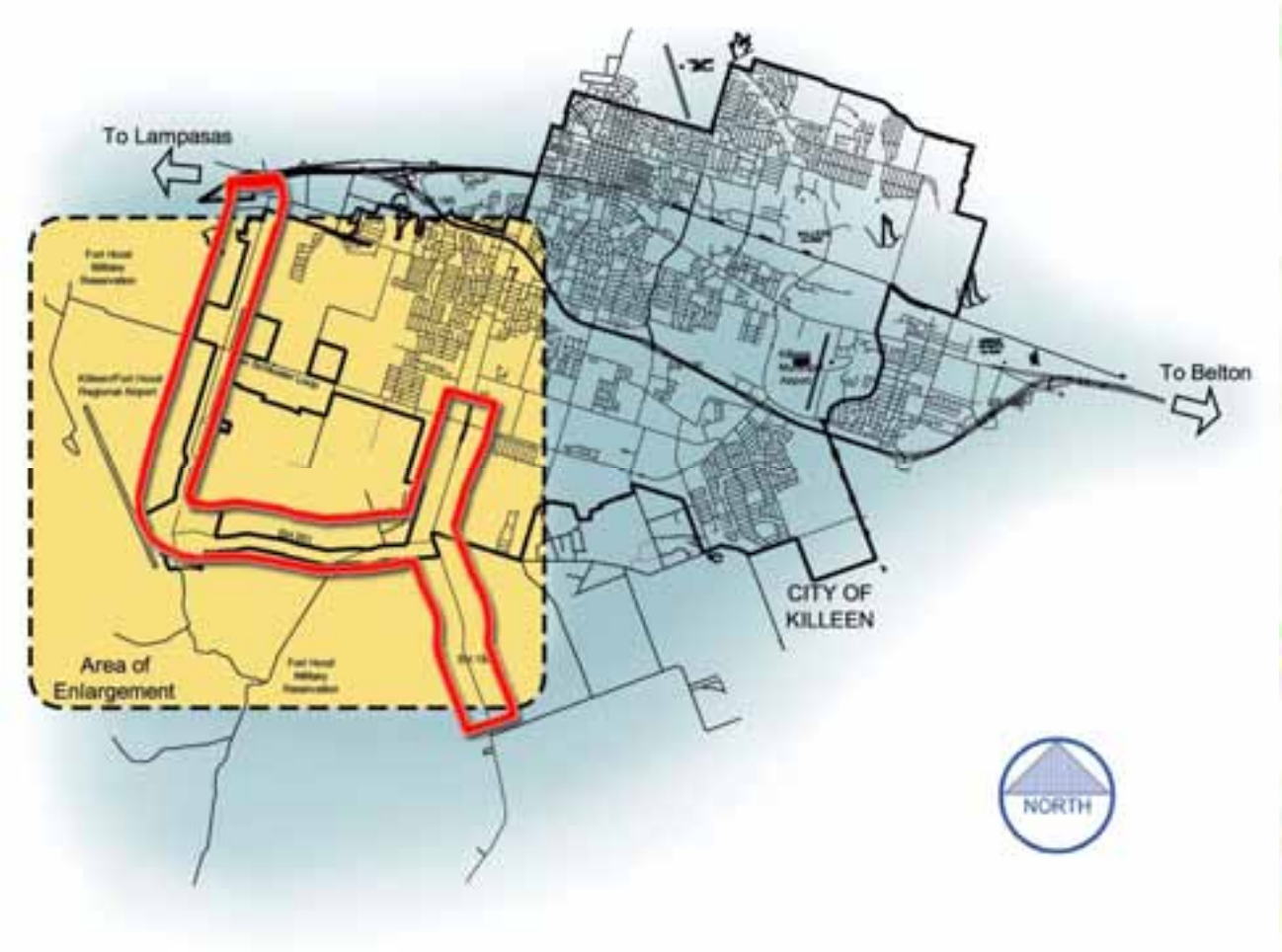
(c) The conditions of this ordinance shall apply to property located east and/or north of the right-of-way of State Highway 201 for a depth of fifteen hundred (1,500) fee beginning at the intersection of FM 3470 and State Highway 201 and continuing south to the intersection of State Highway 201 and State Highway 195. The conditions of this ordinance shall also apply to all property located west and/or south of the right-of-way of State Highway 201, and south of FM 3470.

(d) Avigation easements shall be required for developments north of FM 3470 and east of the right-of-way of State Highway 201 for a depth of fifteen hundred (1,500) feet and to all property located west of the right-of-way of State Highway 201 and north of FM 3470."

3.4. Study Area

The Study Area for the LUP follows SH 195 from the City Limits at Chaparral Street northward to the interchange with Stan Schlueter Loop (FM 3470), and also follows SH 201 from its intersection with SH 195 westward and northward to its intersection with US Highway 190. The Study Area is some 1500' to both sides of these roadways. 1500' was chosen as a depth at the beginning of the study, because this depth will typically encompass large commercial developments usual to Killeen (500' to 800'), a potential parallel roadway (influenced by TxDOT Access Management policies), and development areas to the other side of the potential parallel roadway.

A map of the Study Area is below:



4. Major Land Use Influences

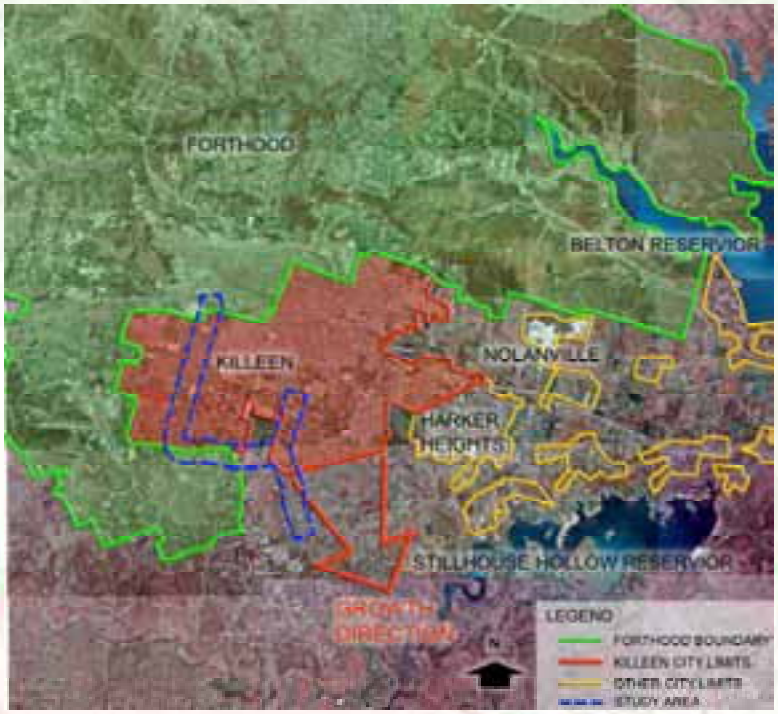
4.1. *City Edges and General Growth Patterns*

The Fort Hood Military Reservation forms a hard edge to development around the west, north, and southwest edges of the City. The "pocket" formed by Fort Hood is an area of rapid growth for the City of Killeen. Urban development may push to the edges of the military reservation, but certainly may not physically encroach upon it. Likewise, the City of Harker Heights forms a hard edge to the east.

These hard edges have tended to push development southward. The Study Area has seen remarkable growth pressures within the last 5 years, due primarily to these edges and to some catalysts to development within or adjacent to the Study Area.[4] These

[4] Meeting with Thomas Dann, Director of Planning, March 24, 2005, at City Hall.

catalysts include the Killeen/Fort Hood Regional Airport, SH 195/SH 201 Interchange, and a Future University site at the Interchange.



4.2. *Killeen/Fort Hood Regional Airport*

This newly finished joint Airport provides a civilian terminal on the east side for private sector operations and a military complex on the western portion for US Army operations. It is a major investment in the future development of the City as well as a necessity for troops reporting to the Fort. It will be a major destination for traffic in the local area, and may serve as a catalyst to industrial development. The net industrial expansion within a 30 mile radius of the facility is expected to generate more than $2.8 billion in added yearly gross product by the time that the Airport is in full operation by 2014.[5]

The Airport is located at the southwest corner of the "pocket" formed by the Fort Hood Military Reservation, and therefore any development associated with or stimulated by the Airport will have to be located east or northeast of the Airport.

The Airport runways and aprons are oriented southeast and northwest, so that approaches and takeoffs occur over Fort Hood lands. As such, the noise impact levels of commercial traffic have limited impact upon nearby residents. Logically, those properties nearest the Airport will be impacted the most by increase noise levels as the Airport traffic grows, which has an impact on the suitability of these properties for future residential development. Commercial air traffic, measured in enplanements, is projected to be 131,920 in 2006 and will increase to 240,620 by 2016.[6]

[5] An Analysis of Economic Development and Joint-Use at Fort Hood's Robert Gray Army Airfield, The Perryman Group, March 2000.
[6] Planning Program for Killeen Joint Use Aiport at Robert Gray AAF, February 2004, page B.21

As of the date of this LUP, the need and feasibility of a 2nd runway is being studied. This runway can be located in only a few locations near the existing runway, and connected with taxiways. As noted in Section 3.3, an Interim LUP was adopted to protect the flexibility needed for the 2nd runway study. Relevant to this report, if the runway is located in close proximity to the Future University, then careful consideration will have to be given to the compatibility of Airport operations and University operations.

Once the 2nd runway has been studied and it's associate flight corridors identified, then the LUP can be modified in response, perhaps giving greater flexibility in land uses within the Study Area.

As the military mission of Fort Hood expands, the potential for military air traffic increases.[7] The military operations at the Airport are projected to be 24,059 in 2006 and will increase to 29,328 by 2016.[8] This military air traffic can take the form of airplanes and helicopters, and the flight circulation patterns extend over the southwestern corner of the Study Area. Such helicopter overflights are seen as common in the City, and are not perceived to be a large impact on the quality of life.[9] However, the noise impacts from the increase military air traffic will have the same effects on nearby properties as the increased commercial traffic.

Noise is generally defined as "unwanted sound", and is the matter for subjective judgment of what is "noisy" and what is not. However, noise is the very cause of adverse community response to airports. An extended technical discussion of noise specific to the Killeen Joint Use Airport can be found in Planning Program for Killeen Joint Use Airport at Robert Gray AAF, February 2004, page F.2. In short, most of the property most likely to be adversely affected by excessive noise (technically defined as greater than 65 db(A)) lays entirely within the Fort Hood Military Reservation, with the exception of a commercial/aviation related parcel immediately south of the Terminal.[10] This impact is projected to not significantly increase through 2021.

Nevertheless, what is noisy is a subjective judgment. A conflict can arise between the aviation land use posed by the Airport and the apparent residential growth pattern of the areas north of SH 201 and east of SH 201, in spite of what the empirical noise models and theoretical thresholds may indicate. Increasing residential development in the areas surrounding the Airport may engender opposition to Airport operations by the new residents, even if the Airport existed before the homes were built.[11] Also, airports by their nature tend to generate nearby opportunities for light industrial, warehousing, shipping, and other such nonresidential uses.

[7] Meeting with Fort Hood representatives of the Encroachment Prevention and Management Committee (EPMC) and City Staff, April 7, 2005, at City Hall.
[8] Planning Program for Killeen Joint Use Aiport at Robert Gray AAF, February 2004, page B.22
[9] Meeting with Fort Hood representatives of the Encroachment Prevention and Management Committee (EPMC) and City Staff, April 7, 2005, at City Hall
[10] Planning Program for Killeen Joint Use Aiport at Robert Gray AAF, February 2004, page F.8 and fol.
[11] Meeting with Fort Hood representatives of the Encroachment Prevention and Management Committee (EPMC) and City Staff, April 7, 2005, at City Hall

The more appropriate land uses in close proximity to the Airport is industrial and commercial uses. However, the plan recognizes that residential uses may evolve, and these are permissible if avigation easements are put in place over the residential properties. The avigation easements are recommended for both new residential and new commercial developments.

4.3. SH 195/SH 201 Interchange

This interchange has the potential to be a major gateway to the City on SH 195. Already a major artery that connects Killeen to IH-35, SH 195 carries a significant amount of traffic to and from the City and Fort Hood. SH 201 connects SH 195 to the Airport and western terminus of Stan Schlueter Loop. On the City's Major Thoroughfare Plan, SH 201 is planned to extend eastward to FM 3418. There have been some discussions at TxDOT to push the SH 201 alignment southward and southeastward, crossing the upstream end of Stillhouse Hollow Lake, and connecting to I-35 in the vicinity of Salado. In any case, this interchange will be a landmark in the future, and the ultimate size of the interchange is currently being designed by TxDOT.[12]

As a land use influence, the interchange will tend to draw destination and capture commercial uses such as retail establishments. In terms of vehicle traffic, land uses draw 2 types of vehicle trips to them. The first type, "destination," denotes those trips where the land use is the intended destination. A dentist office use can be considered a typical destination use. The second type, "capture," describes those trips where an opportunistic stop is made. A restaurant, retail store, convenience store, or a gas station often has a sizable amount of capture traffic.

4.4. Future University

The southwestern corner of the SH 195/SH 201 interchange is part of the Fort Hood Military Reservation, and approximately 600 acres at this corner is being considered for a Future University campus site. No land transactions have been completed as of the date of this report. The City instructed Carter & Burgess to use this Future University site as a given parameter in this study.

The University System offered some unofficial comments regarding compatible land uses for a university. Low to medium density (up to 20 units per acre) residential and mixed use (local commercial and medium density residential) located across SH 201 are compatible uses. A large scale commercial node at the SH 195/SH 201 interchange is acceptable, and restaurants and entertainment can be included in this node.

The University System is concerned about any land uses that affect the long-term liveability of the campus, such as excessive levels of light pollution, dust, odor, noise, and undesirable visual impacts. Uses that promote intensive light levels such as car dealerships should be avoided. Avoiding industrial uses that have these impacts is essential to the campus' success. The University System is also concerned with maintaining the visual appearance of the SH 201 and SH 195 corridors. Suggestions were made about establishing sign ordinances and architectural review for the corridor, in order to maintain a predictable standard for visual appearance.

[12]Telephone discussion with Billy Tweedle , TxDOT Belton Area Staff, April 28,2005; Meeting with Tom Dann, City of Killeen Planning Director, March 24, 2005.

4.5. *Texas Veterans Cemetery*

Currently under construction, the Texas Veterans Cemetery is located immediately south of the Future University site on the west side of SH 195. The Cemetery occupies the frontage of SH 195 southward to the City Limits at Chaparral Street. Certainly, the Cemetery is not an obtrusive land use, but the dignity and character of such a place should be respected.

The Cemetery is owned and operated by the Texas Veterans Land Board (TVLB), who offered some input as to land use in the Cemetery's locale.[13] Industrial uses of any kind in the area around the Cemetery should be discouraged. In addition to avoiding impacts from odor, dust, and noise, the TVLB would prefer that the areas around the Cemetery adhere to the "Dark Skies Initiative" guidelines. (www.darksky.org) This initiative endeavors to limit light pollution that is caused by unshielded site lighting. This light pollution can be caused by streetlights and parking lot lights that direct light into the sky as well as to the ground. The "Dark Skies Initiative" seeks to limit light pollution through the use of reflectors and shields that direct illumination to the ground. The adoption of the guidelines promoted by the Initiative are voluntary only, unless a local government seeks to employ them through policy.

The TVLB sees the Future University to the north as a compatible land use. The existing funeral home across SH 195 from the Cemetery is a compatible land use. Examples of incompatible land uses on either side of SH 195 include car dealerships, liquor stores, convenience stores/gas stations, mini-storage, warehouses, and intensive agricultural operations such as a feedlot. The existing funeral home across SH 195 from the Cemetery is a compatible land use.

4.6. *Fort Hood Military Reservation*

As mentioned earlier, Fort Hood forms a unique hard edge to the urban growth of Killeen. Together with the Harker Heights city limits to the east, these edges force the growth of Killeen to the southeast and south.

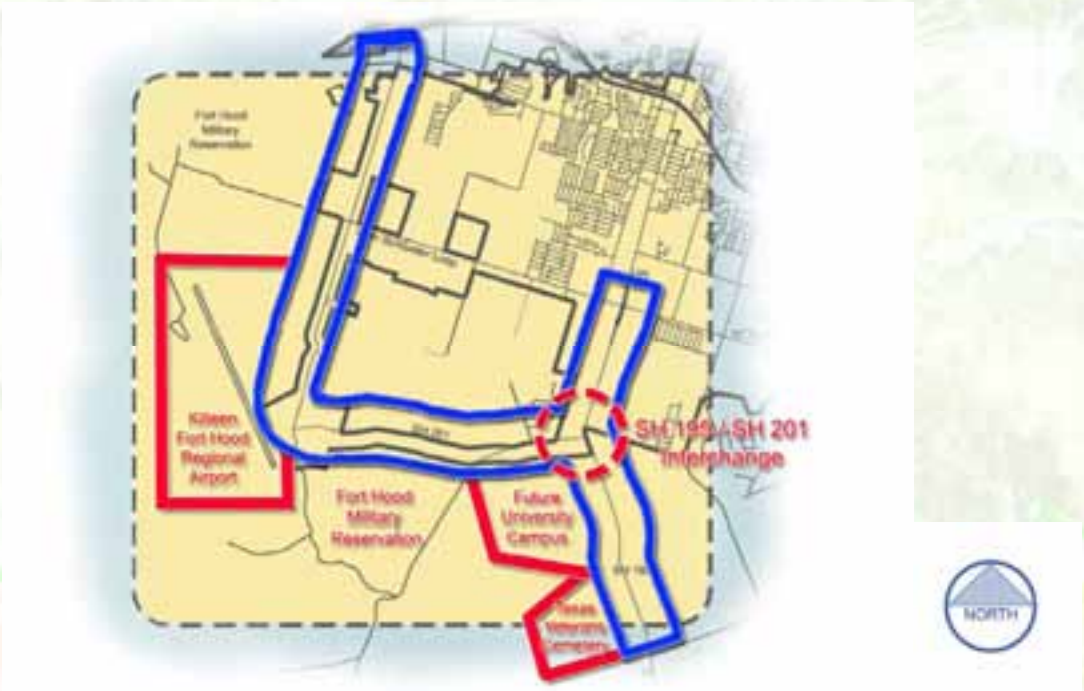
Representatives from Fort Hood expressed concern about "encroachment," which is the Army's term of art for civilian actions that impact the missions and operation of Fort Hood. Aside from the national military mission, Fort Hood represents the largest economic driver in the Killeen region.

Assisting Fort Hood with their mission is an important task for the City of Killeen. The City is blessed to have the largest single point employer in the state. Fort Hood's government payroll exceeds $1,000,000,000 annually, and its yearly contract purchasing exceeds $400,000,000. Further, approximately 65% of the soldiers do not live on the installation, and have Killeen and the surrounding area as their home.

As Killeen grows, certain activities within the City can conflict with the mission of Fort Hood. The military term for this is called "encroachment." In terms of the LUP, undesirable "encroachment" takes the form of obstructions such as radio and mobile transceiver towers, and residential development in close proximity to the Airport. In

[13] Carter & Burgess Minutes of Meeting with Texas Veterans Land Board, May 2, 2005.

order to address potential "encroachment" issues, Fort Hood representatives expressed a desire to be a part of the City development approval process.[14]



4.7. *Current Locally Accepted Development Patterns*

The local development patterns are an influence upon the LUP Recommendations, because they are an indicator of how the development community is used to practicing. For example, lining major arterials with commercial uses is a locally accepted planning practice in the surrounding region. The same inclinations can be expected within the Study Area.

Another locally accepted development pattern is to locate residential developments away from arterial roadways, usually locating them behind commercial uses. For residential developments, the resulting impacts of noise from SH 201 and SH 195 can negatively impact them. Conversely, residential developments do not need the traffic exposure that commercial developments require. Therefore, it can be expected that the same development pattern will show up in the Study Area.

[14] Meeting with Fort Hood representatives of the Encroachment Prevention and Management Committee (EPMC) and City Staff, April 7, 2005, at City Hall

5. Conclusions based upon the Major Land Use Influences

The combination of the Major Land Use Influences helps form a number of conclusions, which in turn affect the recommendations of the LUP. These Major Land Use Influences as discussed above include:

- City Edges and General Growth Patterns
- Killeen/Fort Hood Regional Airport
- SH 195/SH 201 Interchange
- Future University
- Texas Veterans Cemetery
- Fort Hood Military Reservation

These form parameters that affect development or represent significant investments that can be compromised by adverse types of development. The conclusions below are drawn from the investigations of these Influences:

Technically, a large majority is outside of the 65 db(A) noise contour of the Airport. As a practical matter, residential land uses in close proximity to the Airport increases the possibility of creating conflict between the new residents and the growing Airport. Also, SH 201 is an existing arterial whose traffic use will also grow in the future. This situation points to promoting nonresidential land uses along the frontage of SH 201 and in close proximity to the Airport.

The small parcel south of the Airport Terminal is transected by the 65 db(A) noise contour, and therefore should be industrial or an aviation-related use.

It is reasonable to expect that the free market will develop a large commercial node at the SH 195/Sh 201 Interchange. The LUP should promote such an opportunity. However, the prominent location of the Interchange relative to the Future University and the overall transportation network for Killeen also suggests that this Interchange is a significant gateway to and from Killeen. Care should be taken to insure that quality development is promoted for this commercial node.

The Future University will be a large driver of development on those parcels in close proximity to it. Given the significant investment of political capital and effort that the overall community has put into attracting the Future University, development that complements the Future University should be promoted. Commercial, mixed use development, and low to medium residential on the SH 201 and the SH 195 frontage are good neighbors to the Future University. Realizing the existing and future arterial nature of both roadways, it is logical to endorse commercial uses on the frontage with the lower intensity uses behind.

However, it is logical to conclude that some policies need to be put in place that restrict land uses that are adverse to the Future University as well as the Cemetery. Often, these same land uses often detract from an overall perception of the quality of life. Policies to promote them elsewhere or mitigate their impacts benefit the University and the Cemetery, both of which represent significant investments in the community. These significant investments require special considerations and policies to promote compatible development. Such a policy could be the use of an Overlay District that permits by right office and low impact commercial developments, and allows higher impact commercial and mixed used developments as a special use permit with the purpose of providing mitigating improvements for their impacts. An alternate policy could be the engagement of design guidelines that would have to be employed by all developments within the Overlay District.

Based upon the "encroachment" issues raised by Fort Hood, it is clear that the City needs to not promote land uses that endanger the operations at the Fort. However, the City is required to follow the Local Government Code of Texas. The Local Government Code clearly spells out the responsibilities of the City in regards to development review and approval. The City also wants to service the needs of the development community by not adding another layer of bureaucracy to the development review process, and Fort Hood does not want to be perceived as doing a property taking. One rational conclusion is for Fort Hood to enumerate their specific concerns to the City, which will then include them in the City policies and Code of Ordinances insofar as they comply with the Local Government Code. Fort Hood can monitor the process of development review, and can offer input to guide the development review processes if needed. The City can then respond to Fort Hood's input and alter the policies and Codes as allowable.

Lastly, the impact of the TxDOT Access Management Criteria changes how properties fronting on State Roads are accessed. In short, this is a mandated policy to maintain traffic flow on state roads by regulating the number of intersections and driveways that access the roadway. The Criteria consists of minimum distances between intersections, depending upon the design speed of the roadway. The logical conclusion that can be drawn from this information is that a system of parallel collector and local roadways may be needed to provide adequate vehicular access for properties fronting on State Roads, particularly smaller lots.

Similarly, Reese Creek Road should be maintained in place as such a parallel roadway, or a similar roadway put in a similar location.

6. Study Process

A project initiation meeting was held with the Land Use Committee of the City Council on March 24, 2005. The process was presented to the Committee, and expectations and goals were set for the project.

6.1. Inventory & Analysis

The study process began with mapping of existing conditions. Aerial photography and GIS mapping were provided by City, as well as the Major Thoroughfare Plan were included in the base information. Extensive site visits were performed throughout the corridor, with photography being the primary means of documentation. This dataset of existing conditions became the basis of the mapping efforts and allowed for the various objective analyses of the Study Area to be conducted. Existing site condition base maps were generated and imparted a general understanding of the Study Area and the City to the Design Team.

The base maps, photography and existing conditions inventory were used to create an Inventory and Analysis map, which illustrate those conditions which pose opportunities and constraints to the proposed master plan program. These can be found in the Appendix.

Further, meetings with key stakeholders in the project were held to gain insight into future plans and complementary land uses. Those key stakeholders include representatives from Fort Hood, representatives from the Future University, representatives from the Texas Veterans Land Board, local developers, property owners, and local residents.

6.2. *Public Meeting*

The Inventory and Analysis graphics were presented at a public meeting on April 7, 2005. The process was presented, and input was taken in an "open house" format. The input gathered from these meetings formed the part of the programming basis for the development of the LUP.

6.3. *Preliminary Plan*

An internal Carter & Burgess workshop with senior planning staff was held on May 22, to review previously-prepared plan proposals and to issue the primary recommendations for the LUP. The LUP was then graphically refined and it plus this report were submitted to the City staff for review.

6.4. *Final Plan and Adoption*

After review by City staff and revision by Carter & Burgess, the final LUP was submitted to the Land Use Committee of the City Council on July 25, 2005. After approval by the Land Use Committee, the LUP was presented in public to a Planning and Zoning Commission Hearing on August 15, 2005, and adopted via ordinance at a City Council Meeting on August 23, 2005.

7. Recommendations

The recommendations listed herein are suggestions based upon the Study Process as defined above. The City Council, using its discretion, may elect to enact all or only some of the recommendations described below:

7.1. *Future Land Use Plan*

As shown on the LUP graphic, broad land use categories are proposed for the Study Area. The placement and arrangement of the categories are based upon the results of the Inventory and Analysis, the public meeting, key stakeholder meetings, and planning experience.

These areas and densities of the land use categories are based upon input that we received from the key stakeholder meetings and upon experience. They have not been validated by a market forecast or absorption study. However, there is flexibility built into the LUP to adjust the densities within the land use categories based using the range of the zoning designations that correspond to the LUP.

As properties are developed and require rezoning, a rezoning application will have to be submitted that rezones the property to a designation that conforms to the land use categories of the LUP. This is stipulated in Title 7, Chapter 211 in the Local Government Code of the State of Texas

Although not technically a part of the LUP, recommendations for changes to the Major Thoroughfare Plan are also included in the LUP. The Major Thoroughfare Plan is adopted, showing roadway hierarchy and conceptual alignments. The recommendations included herein modify the conceptual alignments. That does not change the nature, intent, and function of the Major Thoroughfare Plan, and the exact locations of the alignments is subject to design and negotiation. These recommendations need to be reviewed by the Transportation Committee of the City before they can be adopted.

During that review, the Transportation Committee might consider:

- An arterial that crosses through the center of the development area formed by Stan Schlueter Loop, SH 201, and SH 195. Such an arterial might align with Robinett and lead to an intersection with SH 201 in the vicinity of the Future University.
- An arterial that crosses through the center of the development area, east-west, that links to the airport.
- A supporting collector network that provides and approximate 1 mile loose grid through the development area.

7.1.1. General Discussion of Land Uses

Institutional Uses:
The Veterans Cemetery exists along the west frontage of SH 195, at the southern end of the Study Area. The Future University is planned for the southwest quadrant of the SH 105/SH 201 intersection. Both are desirable uses, represent major community investments, and these areas are designated as institutional.

Commercial Uses:
The frontages of SH 201 and SH 195 have commercial potential throughout the corridor, with the exception of where the frontages are occupied by Fort Hood, the Future University site, or the Veterans Cemetery. Lining major arterials with commercial uses is a locally accepted planning practice in the surrounding region. Therefore, the LUP recommended a similar practice for the Study Area. Pursuant to the "interim LUP" discussed in Section 3.3, the Study Area fronting onto SH 201 from SH 195 eastward and northward to Stan Schlueter Loop (FM 3470) should be commercial or industrial uses.

As mentioned before, the viability of a 2nd runway is being studied. Once that study is complete and it's associated flight corridors identified, then the LUP can be modified in response, perhaps giving greater flexibility in land uses within the Study Area near the Airport. Subsequent to the conclusion of the 2nd runway study, the depth of these commercial developments should be 300' to 500', or as modified by the City Council on a case basis.

The SH 201/SH 195 Interchange also holds potential for commercial development, in a more intensive amount than those areas that are simply along one frontage or the other. Similarly, the SH 195/Stan Schlueter Loop Intersection and southward to a proposed arterial also holds potential for intensive commercial development due to the closer proximity of major intersections. The LUP recommends that the area surrounding the SH 201/195 Interchange and the SH 195/Stan Schlueter Intersection be designated as commercial as shown on the LUP Map, to a greater depth than that along the frontage.

Commercial uses include retail establishments for the transaction of goods and services, entertainment venues, wholesale establishments, offices, and other such uses as defined by the City of Killeen.

Residential uses:
Parcels within the Study Area are already being developed as residential properties, so the market need for them is already established. Residential development can be expected to continue. The LUP Map shows the residential uses separated from SH 195 and SH 201 by commercial developments, and access by the secondary collector network described in Section 7.1.2.

Industrial Uses:
Industrial uses are proposed in close proximity to the Airport, behind the commercial frontage on SH 201. This is due primarily to potential for industrial development afforded by the Airport.

Development Controls to Mitigate Adverse Uses:
As seen in Section 5, Conclusions, both the Future University and the Cemetery represent significant investments in the community that can be compromised by adverse land uses. The LUP recommends that an overlay zoning district be implemented to restrict the adverse uses, or city-enforceable design guidelines be implemented to mitigate the effects of adverse land uses.

An overlay zoning district applies specific requirements to a specific area of the City, without changing the land use of the basic zoning district. In this case, the overlay district could restrict automobile dealerships, sexually-oriented business, land uses that emit dust or odor, or high nighttime illumination levels. The land use of the area would remain either commercial or residential. Within the commercial areas, professional office uses by right, and permit other commercial uses to be reviewed by City Council and permitted by a special use permit on a case by case basis. These commercial uses include neighborhood-oriented commercial and retail uses, entertainment, and larger scale retail uses. The overlay district would also contain provisions that pertain to maximum and average light levels, hours of operations, emanating noise levels, and visual appearance. The overlay zoning district will require review and approval by City Council and enactment as an ordinance.

7.1.2. Major Thoroughfare Plan Recommendations

The LUP graphic shows revisions to the schematic alignments of arterials and collectors within and around the Study Area. These alignments were proposed to provide greater connectivity within the Study Area. These schematic alignments should be considered when the City reviews its Transportation element of its Comprehensive Plan.

In addition to the schematic alignment revisions within and around the Study Area as shown on the LUP graphic, three other recommendations are proposed.

First, reserve the ultimate right of way for the SH 195/SH 201 interchange so that this key intersection of the City does not become constricted by development. In addition to being a gateway to the City from the south, it is a critical crossroads that can enhance the future development potential of this rapidly-growing area of the City if not constrained. Also, the quality of the anticipated commercial development on the northwest, northeast, and

southeast quadrants of the intersection can be easily maintained as the intersection expands. (Often, as interchanges expand into crowded commercial areas, eminent domain acquisitions leave less-viable commercial operations which result in a diminished development potential and less valuable tax base for the City.) The right of way can be reserved either through dedication at time of plat.

Another method that can be used to allow the expansion of the interchange is to establish a building setback for those properties around the interchange. This setback should only be enforced for commercial development. Ancillary improvements such as parking lots could be allowed within the setback. When the interchange is expanded, the only improvements that are affected are ancillary parking lots and similar improvements, and the main building structure remains intact. During the development review process for such properties, care should be taken to ensure that sufficient parking is provided outside of the building setback so that the business remains a viable enterprise after the interchange is expanded.

Second, consider increasing the minimum R/W width for future thoroughfare and roadway expansions in the vicinity of the Future University. Universities generate bicycle traffic, especially between medium density residential areas and the campus. Such additional right of way is necessary for bike lanes and additional turn lanes.

Third, also consider developing a trail system that uses a combination of wooded creeks and on-street bike lanes that connect to the Future University by crossing under SH 195 and SH 201 at the creek bridges. Bicyclists and pedestrians can then reach the campus without crossing these major arterials at street level, reducing the danger for vehicle-bicycle accidents.

7.1.3. Either Maintain Reese Creek Road or Develop a Similar Roadway

Two options exist for addressing the vehicular access and circulation issues raised by SH 201 and Reese Creek Road. The properties that front onto Reese Creek Road are being impacted by TxDOT Access Management Criteria, which is discussed in Section 7.1.4 below.

First, Reese Creek Road could be maintained in place as a local access roadway separate from SH 201. Reese Creek Road can help maintain traffic flow on SH 201 by reducing the amount of intersections with SH 201. However, the land between Reese Creek Road and SH 201 is Federal Property, and cannot be used for development. Also, the western portions of this Federal Property screen the properties on Reese Creek Road from view, thereby reducing their commercial potential.

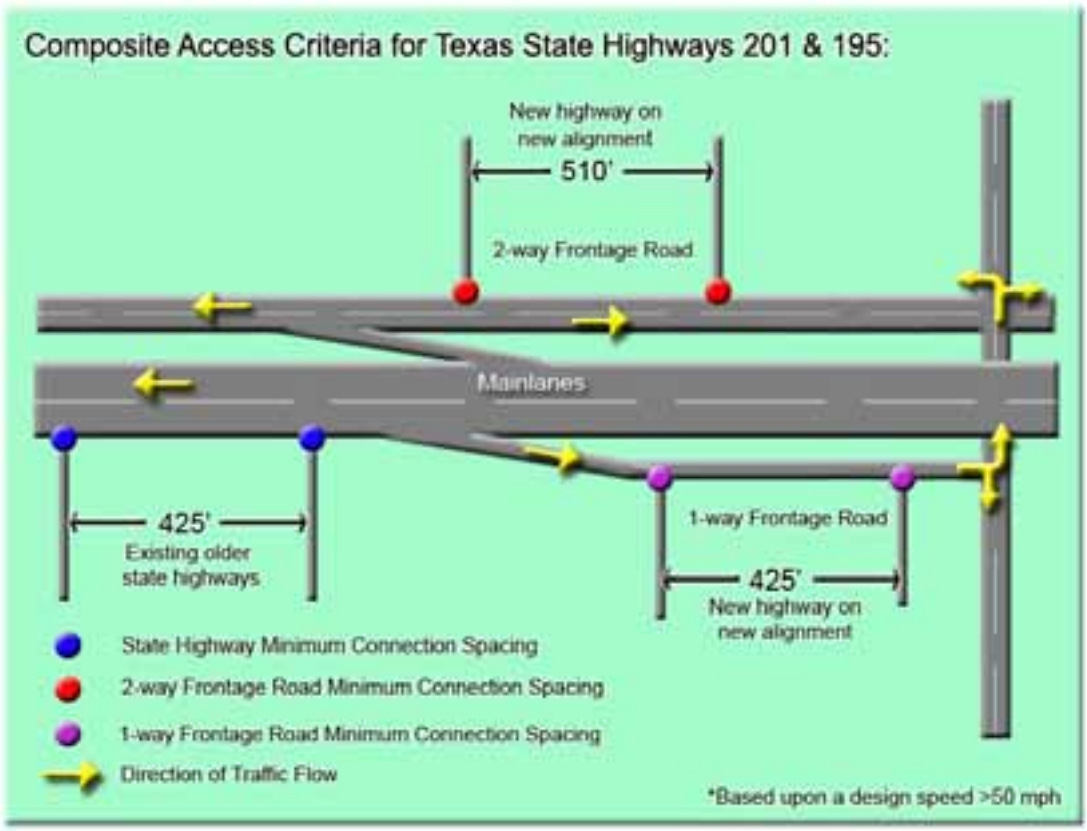
Reese Creek Road is currently a County road, and the County will likely want to either abandon the roadway or transfer the maintenance responsibility to the City. If the City accepts this option to keep Reese Creek Road, then the City should annex the road, adopt it into the Thoroughfare Plan, and maintain the road. It should be noted that the roadway is in diminished condition and has low water crossings that are frequently overrun with stormwater drainage.

Second, an option exists for abandoning the roadway in its current location, and building a similar roadway in a similar alignment farther north. This would allow development on both sides of the roadway, and replace Reese Creek Road with a roadway that is more in keeping with City standards.

7.1.4. Mitigate impacts of TxDOT Access Management Criteria, including parallel roadway (for adjacent residential uses), cross-access easement requirements (for adjacent commercial uses), or slip road (for adjacent commercial uses).

Access management on State-maintained roadways is a reality. The City of Killeen needs to take into account how to respond to this reality. Analysis of the impacts of the Access Management Criteria is beyond the scope of this study, but transportation and land use are extricably linked as companion issues for any city. Following are considerations that need to be addressed by the Transportation Committee, City Staff, and the City Council.

The TxDOT Access Management Criteria is a mandated policy to maintain traffic flow on state roads by regulating the number of intersections and driveways that access the roadway. The Criteria consists of minimum distances between intersections, depending upon the design speed of the roadway. The driveway separations for SH 201 and SH 105 are show below:

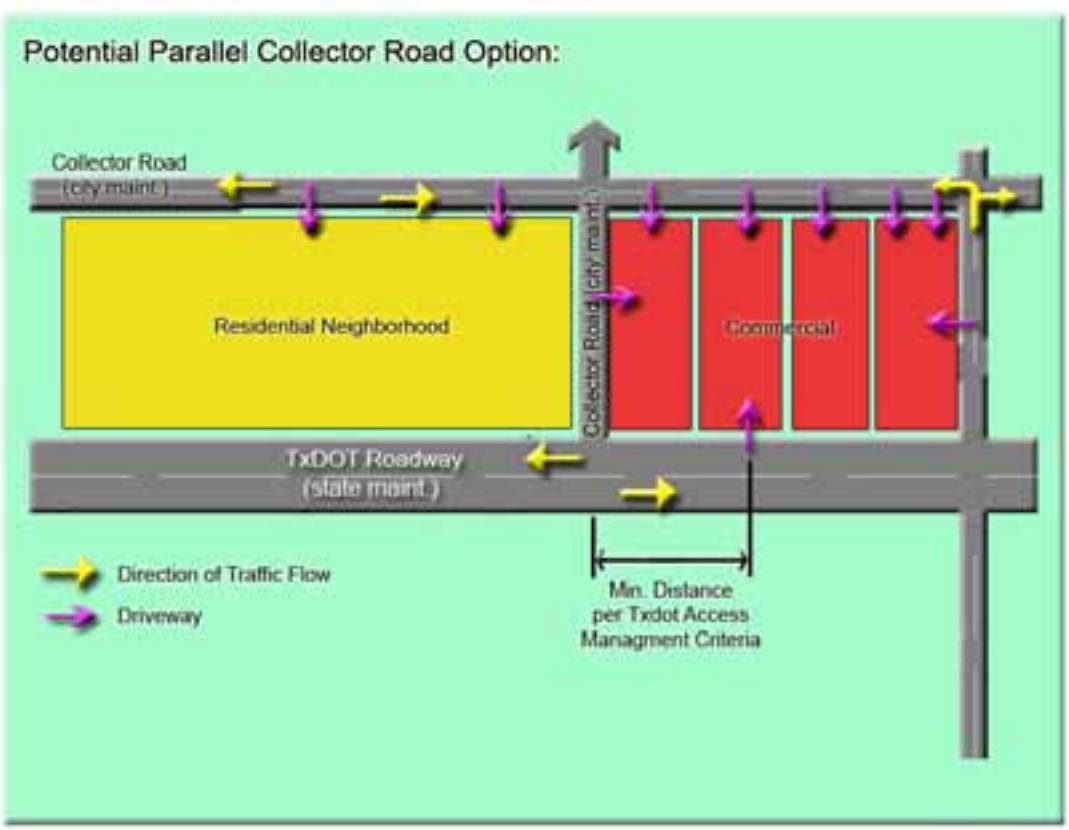


The impacts of the Access Management Criteria are plain. Before access to a State roadway always required permission by TxDOT, the question of access was rarely an issue. Now, access to a State roadway depends heavily on separation distances to nearby intersections. This affects development potential of properties fronting onto State roadways.

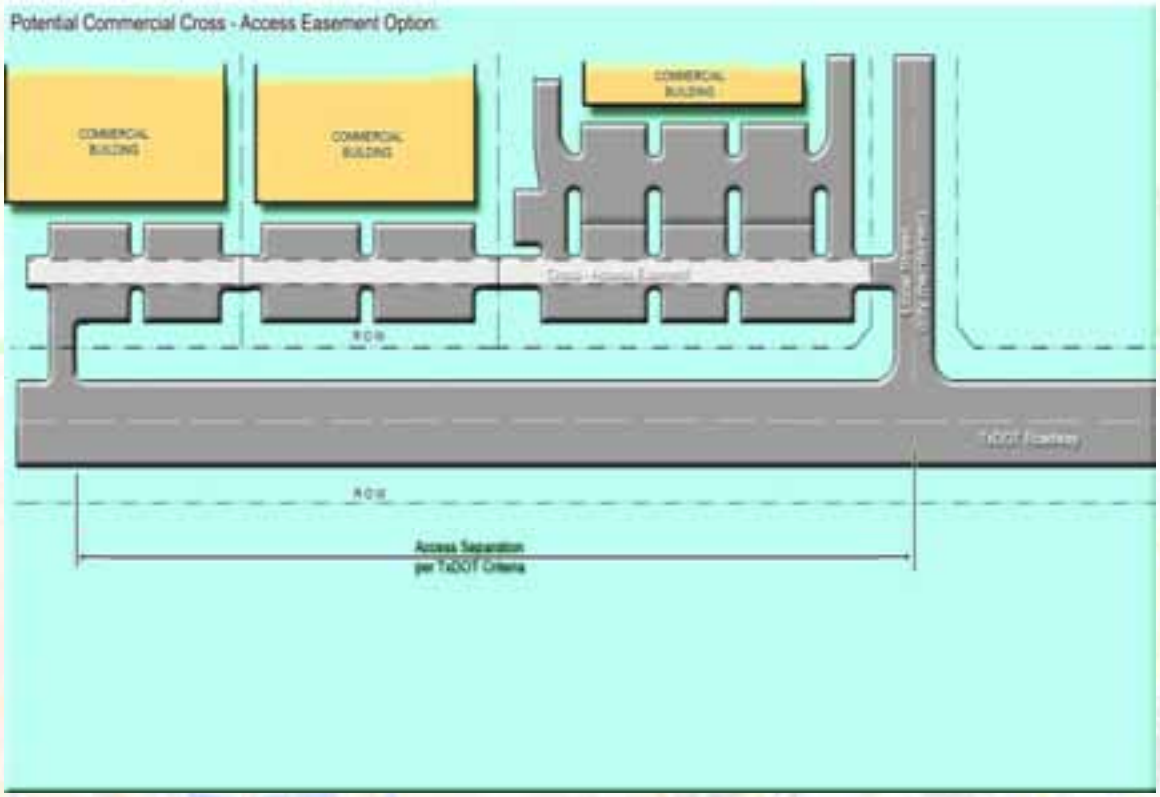
To maintain development potential for these properties, this LUP recommends considering the adoption of policies and requirements to provide greater lateral access to fronting properties. These policies and requirements could encourage the implementation of neighborhood interconnections for residential uses, or cross-access requirements for non-residential uses.

Neighborhood interconnections should be promoted so that properties along State roads do not suffer from reduced development potential due to Access Management Criteria. These interconnections could be accomplished along collector or local roadways, with the provision that the local roadways served as a primary access through the neighborhoods. Interconnection via short streets interrupted by "T" intersections or via circuitous routes should be discouraged.

Another option consists of a City-owned collector road that parallels SH 201 and SH 195 and runs between the commercial uses that front onto the State Highways and the residential uses behind them. The Parallel Collector Road Option is show below:



Another option consists of cross-access requirements for commercial properties should be promoted so that properties along State roads do not suffer from reduced development potential due to Access Management Criteria. These interconnections could be accomplished by connections through parking lots at an established dimension from the road right of way line. The interconnection could also be accomplished by a slip road across the frontage of the State road. The slip road would act like a frontage road, with periodic right-angle connections to the State road. The potential Commercial Cross – Access Easement Option is show below:



7.1.5. Fort Hood Encroachment Issues

The City does not want to impede the mission of Fort Hood, and wants to assist them in the proactive management of their encroachment issues. Fort Hood has been involved informally in the City development review process, and both the City and Fort Hood want to continue that involvement. That involvement consists of informal review of development plats, and has not impacted the City's development review processes. Because this has been working well, this LUP encourages this process to continue.

Other avenues are available to Fort Hood for addressing encroachment concernts. The Airport Joint Management Board and the Airport Expansion Committee are very useful forums available to Fort Hood for addressing development concerns throughout the study. Of course, Fort Hood is also

encouraged to coordinate any development concerns with the City Planning Director.

7.1.6. Avigation Easement for Aircraft Noise

Much discussion has taken place regarding increased civilian and military air traffic at the Killeen-Fort Hood Regional Airport. There is concern that the increasing residential development in the area surrounding the Airport has the potential to create more noise complaints about the increasing air traffic. One suggestion for addressing this concern involves requiring an avigation noise easement or notification on each new residential lot or development platted within a certain radius of the Airport. Such an action will protect the City as well as the developer from accusations of non-disclosure and lack of good faith negotiation, engendered by buyers who fail to perform their due diligence about their purpose.

This LUP report recommends such an action for areas identified as flight corridors where the avigation easements would be required of new development. As of the date of this report, the Airport is a fully functioning facility. Continued use of the Airport, even including increased use, can be considered a reasonable expectation by homebuyers and home sellers. Even so, land uses in the area around the Airport are planned to be Industrial/Business Park uses, in a similar pattern to other airports across the country.

7.2. Zoning Ordinance Recommendations

While not explicitly part of the LUP study, the zoning ordinance was reviewed to gain context of current land development patterns in the City of Killeen. A few recommendations came out of that review. While this is not a all-inclusive list, the following recommendations can assist the City in responding to current development trends.

First, it is in the City's best interest that residential and commercial land uses should be separate zoning categories. Residential uses should not be allowed in commercial districts, unless through a PUD or Mixed-Use Development approval (see below). This provides the City a better tool to enforce the intents of the zoning regulations.

Second, the LUP also encourages consideration of an additional designation to allow flexibility within Chapter 31 of the City Codes to meet current development market trends.

A Planned Unit Development (PUD) should be allowed under Chapter 31 to provide for mixed development types under a unified master plan. Initiated by the developer, rezoning to a PUD designation should require a master plan and development guidelines to be submitted and approved by the City Council. Minimum requirements for the development guidelines should be adopted as part of the PUD zoning regulations, with the intent that the development guidelines promote mitigating improvements in exchange for favorable development conditions and regulations permitted by the City and specific to the individual PUD project.

Alternative development patterns such as Traditional Neighborhood Development (TND) or mixed use development (retail or office on the ground floor, residential or office above) should be enabled under the PUD ordinance.

7.3. *ETJ Recommendations*

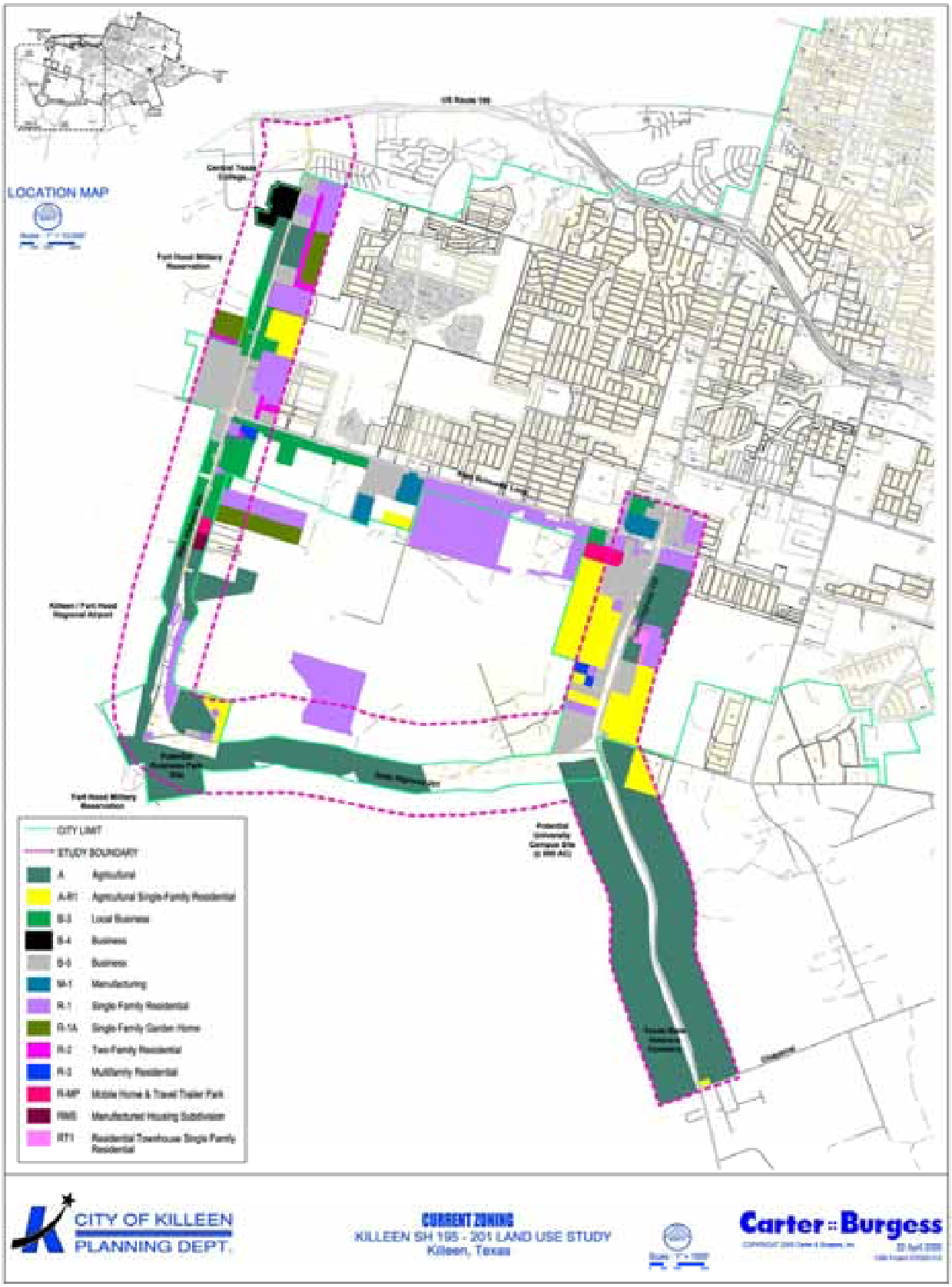
The Local Government Code of the State of Texas does not permit a City to enforce its zoning ordinance outside of the City Limits. However, the Local Government Code does allow Cities to enforce its subdivision ordinance within the Extra-Territorial Jurisdiction (ETJ), which is defined as 5 miles outside of the City Limits for Cities with Killeen's population. The relevant chapters that address subdivisions within the ETJ are Chapter 42 and Title 7, Chapter 212. These have been included in the Appendix.

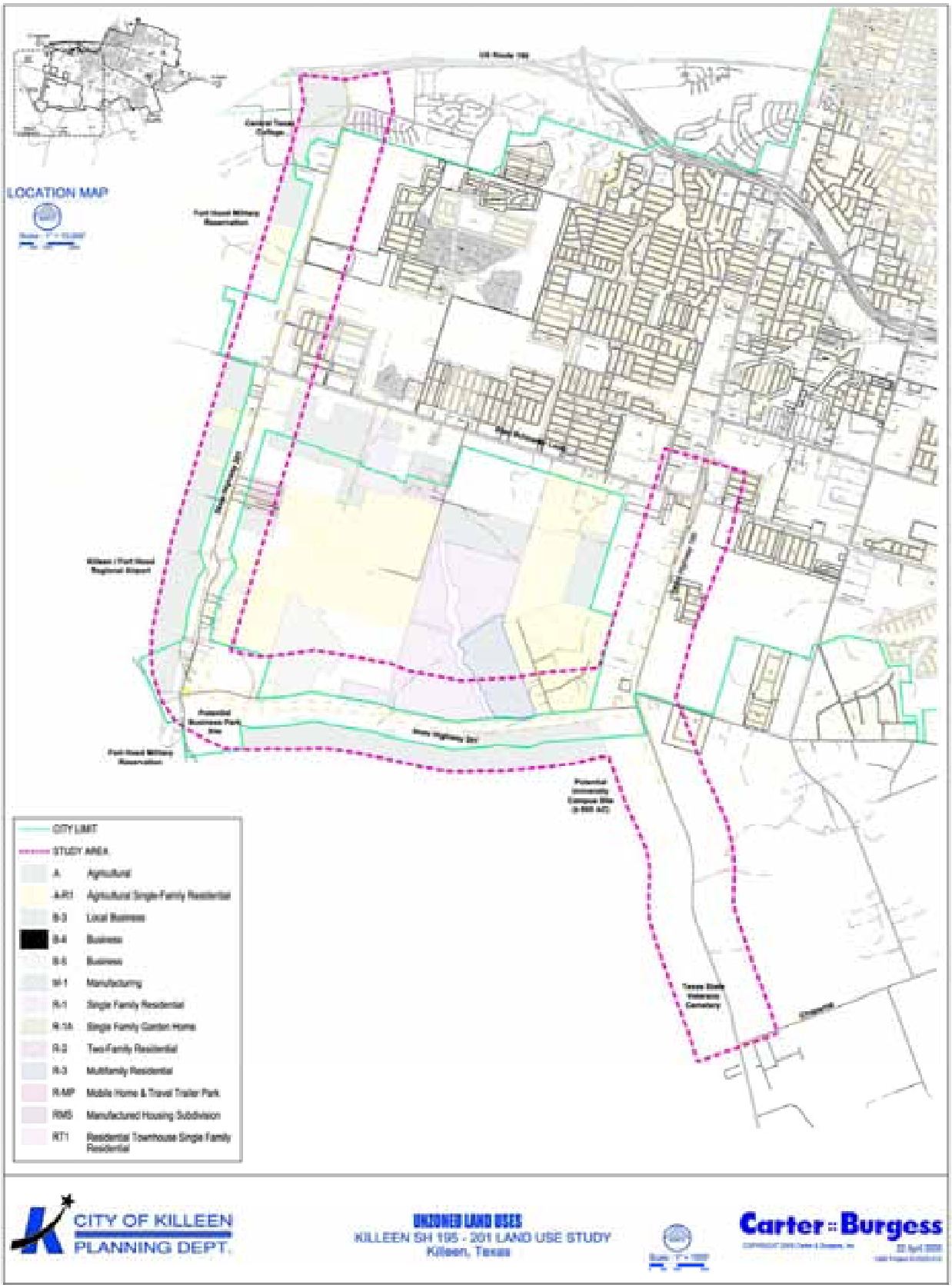
As this enforcement is a clearly permitted right by State Law, it is important for the future growth of Killeen to enforce its subdivision regulations within the ETJ, if it is not already doing so. As stated in Section 4, this sector of Killeen will continue to be a hot growth corridor. As the City inevitably expands through annexation in this direction, subdivisions that originally will be outside of the city limits will be inside of the City Limits. If the subdivision regulations are not enforced within the ETJ, the subdivisions most likely to be annexed will not comply with the minimum standards set forth in the subdivision regulations. Annexing subdivisions that do not meet the subdivision regulations set forth by the City will require additional maintenance dollars, because the subdivisions are not constructed to the minimum standards. This is not in the best interests of the citizens, who end up paying a disproportionate amount of taxes to repair infrastructure in the unregulated subdivisions.

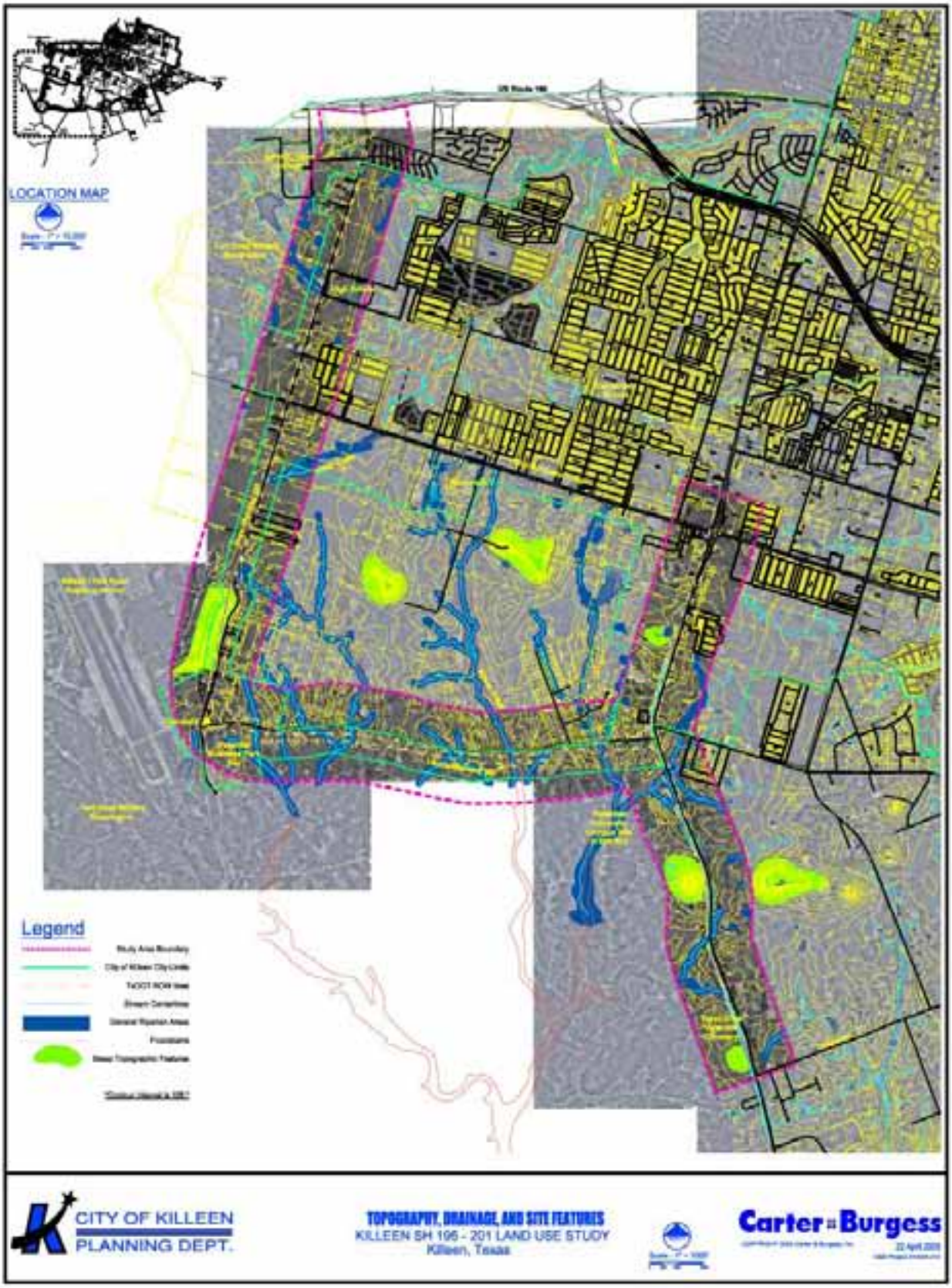
Some recommendations within the Study Area can be applied to the Extra-Territorial Jurisdiction (ETJ) of the City, specifically southward along SH 195. First, the recommendations regarding the Major Thoroughfare Plan (Item 7.1.2) can be implemented in the ETJ. This recommendation is logical, as these recommendations should be implemented throughout this area of the City.

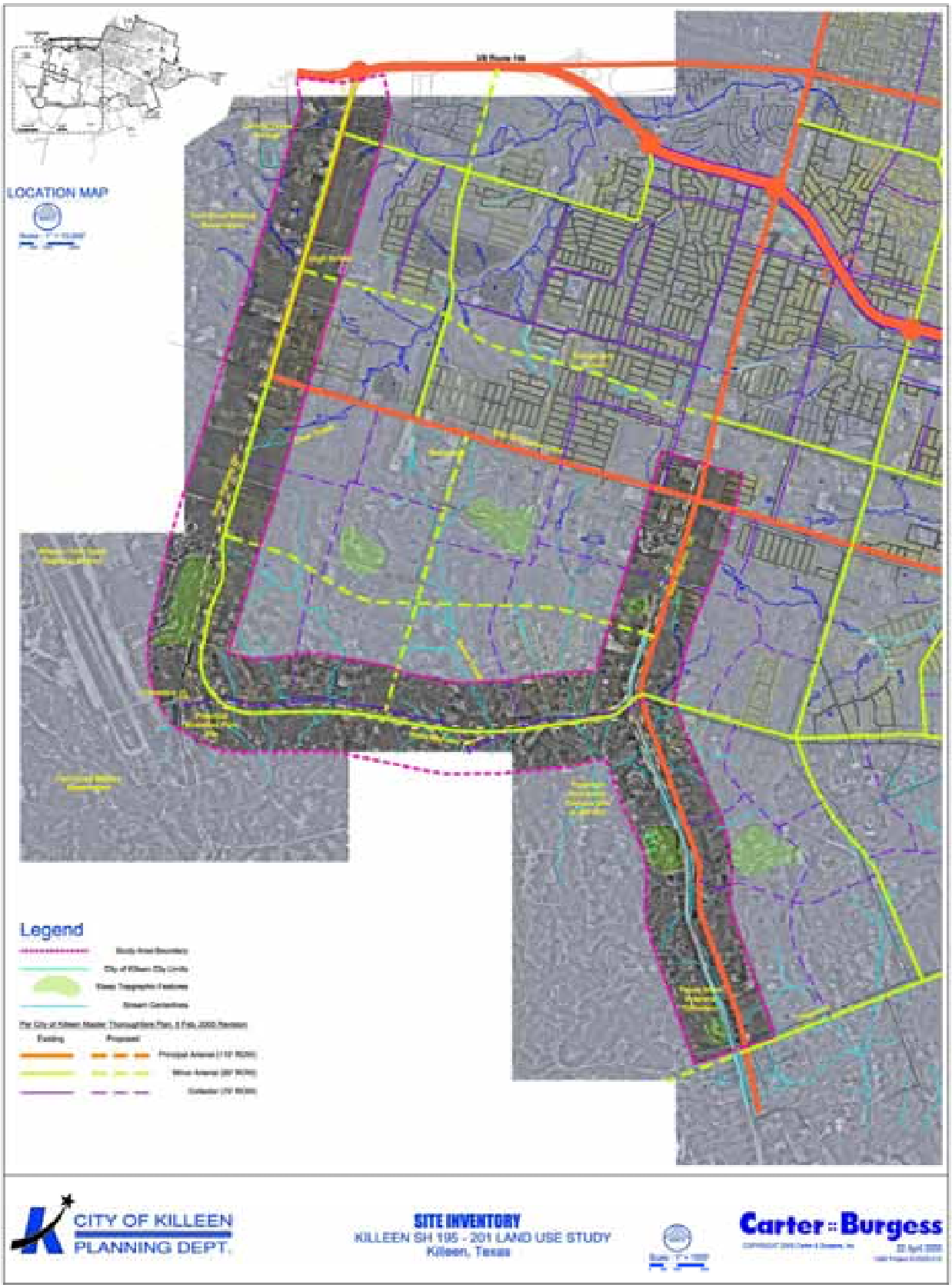
Second, the recommendations regarding the TxDOT Access Management Criteria (Item 7.1.4) should be implemented within the ETJ, as the Criteria apply equally to the State Roads within the ETJ.

Appendix


LOCATION MAP
CITY LIMIT
STUDY BOUNDARY
A Agricultural
A-R1 Agricultural Single-Family Residential
B-3 Local Business
B-4 Business
B-5 Business
M-1 Manufacturing
R-1 Single Family Residential
R-1A Single Family Garden Home
R-2 Two-Family Residential
R-3 Multifamily Residential
R-MP Mobile Home & Travel Trailer Park
RMS Manufactured Housing Subdivision
RT1 Residential Townhouse Single Family Residential
CITY OF KILLEEN
PLANNING DEPT.
CURRENT ZONING
KILLEEN SH 195 - 201 LAND USE STUDY
Killeen, Texas
Carter Burgess


LOCATION MAP
US Route 190
Central Texas College
Fort Hood Military Reservation
Killeen / Fort Hood Regional Airport
Powerful Business Park, Inc.
State Highway 201
Fort Hood Military Reservation
Potential University Campus Site (± 800 AC)
Texas State Veterans Cemetery
CITY LIMIT
STUDY AREA
A Agricultural
A-R1 Agricultural Single-Family Residential
B-3 Local Business
B-4 Business
B-5 Business
M-1 Manufacturing
R-1 Single Family Residential
R-1A Single Family Garden Home
R-2 Two-Family Residential
R-3 Multifamily Residential
R-MP Mobile Home & Travel Trailer Park
RMS Manufactured Housing Subdivision
RT1 Residential Townhouse Single Family Residential
CITY OF KILLEEN
PLANNING DEPT.
UNZONED LAND USES
KILLEEN SH 195 - 201 LAND USE STUDY
Killeen, Texas
Carter Burgess


LOCATION MAP
Legend
CITY OF KILLEEN
PLANNING DEPT.
TOPOGRAPHY, DRAINAGE, AND SITE FEATURES
KILLEEN SH 195 - 201 LAND USE STUDY
Killeen, Texas
Carter Burgess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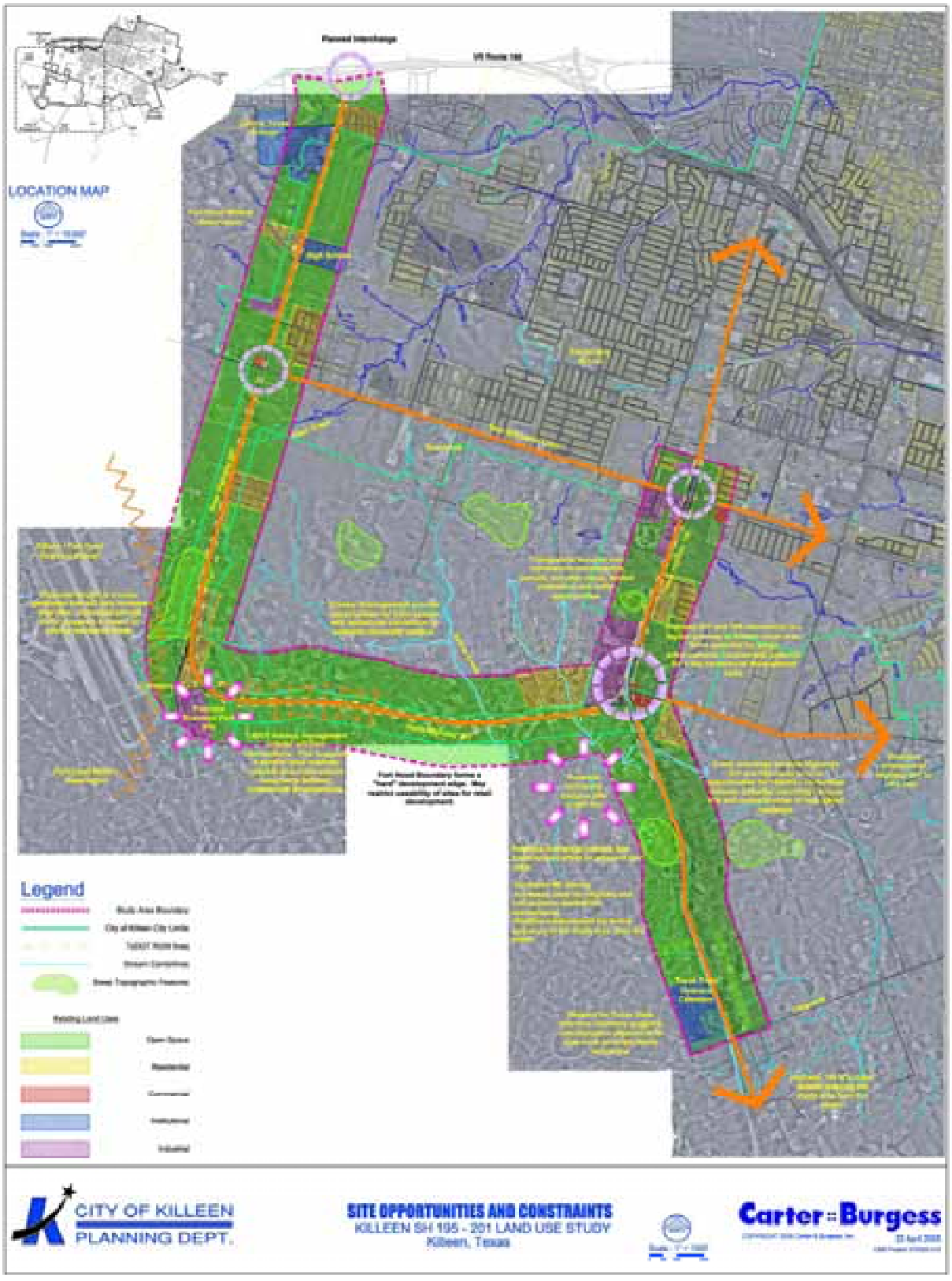
CITY OF KILLEEN
PLANNING DEPT.
SITE INVENTORY
KILLEEN SH 195 - 201 LAND USE STUDY
Killeen, Texas
Carter Burgess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CITY OF KILLEEN
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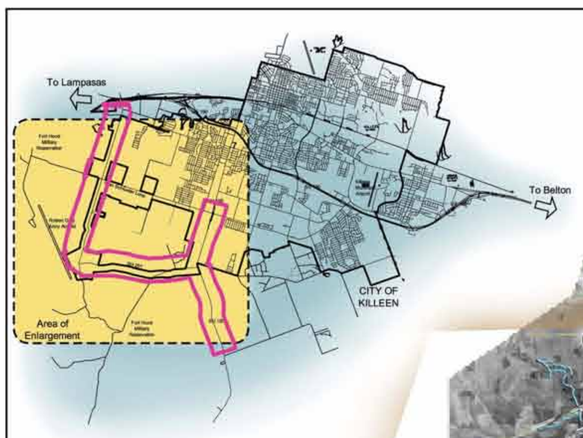
SITE OPPORTUNITIES AND CONSTRAINTS
KILLEEN SH 195 - 201 LAND USE STUDY
Killeen, Texas
Carter Burgess



LOCATION MAP

NORTH

Scale : 1" = 10,000'

0 5000 10000 20000

US ROUTE 190

CENTRAL TEXAS COLLEGE

FORT HOOD MILITARY RESERVATION

FORT HOOD MILITARY RESERVATION

FORT HOOD ST (ST HWY 195)

STAN SCHLUETER LOOP (FM 3470)

KILLEEN / FORT HOOD REGIONAL AIRPORT

NEW AIRPORT TERMINAL

ST HWY 201

FORT HOOD MILITARY RESERVATION

CHAPARRAL

LEGEND

- COMMERCIAL
- RESIDENTIAL
- INDUSTRIAL
- OPEN SPACE
- AVIATION
- INSTITUTIONAL
- POTENTIAL UNIVERSITY CAMPUS
- FORT HOOD MILITARY RESERVATION
- TEXAS STATE VETERANS CEMETERY

- STUDY AREA BOUNDARY
- KILLEEN CITY LIMITS
- EXTREME TOPOGRAPHIC FEATURE (PARK LAND)
- STREAM CENTERLINES
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- RECREATIONAL TRAIL
- POTENTIAL OVERLAY DISTRICT (REQUIRES CITY ORDINANCE TO ENACT)

NOTE:
PER CHAPTER 213 OF THE TEXAS LOCAL GOVT. CODE, A COMPREHENSIVE PLAN SHALL NOT CONSTITUTE ZONING REGULATIONS OR ESTABLISH ZONING DISTRICT BOUNDARIES.

CITY OF KILLEEN
PLANNING DEPT.

LAND USE CONCEPT

KILLEEN SH 195 - 201 LAND USE STUDY
Killeen, Texas

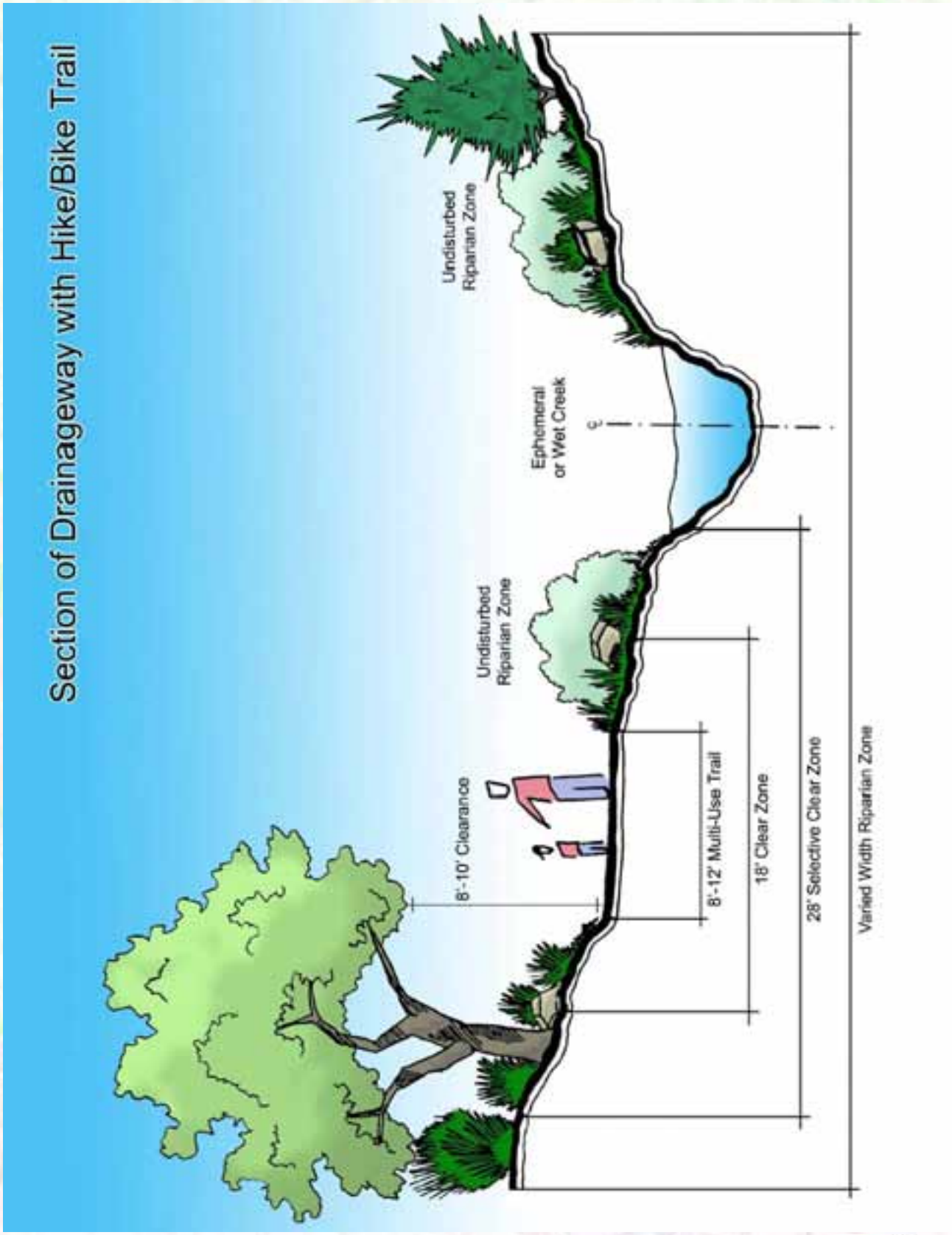
NORTH

Scale : 1" = 1000'

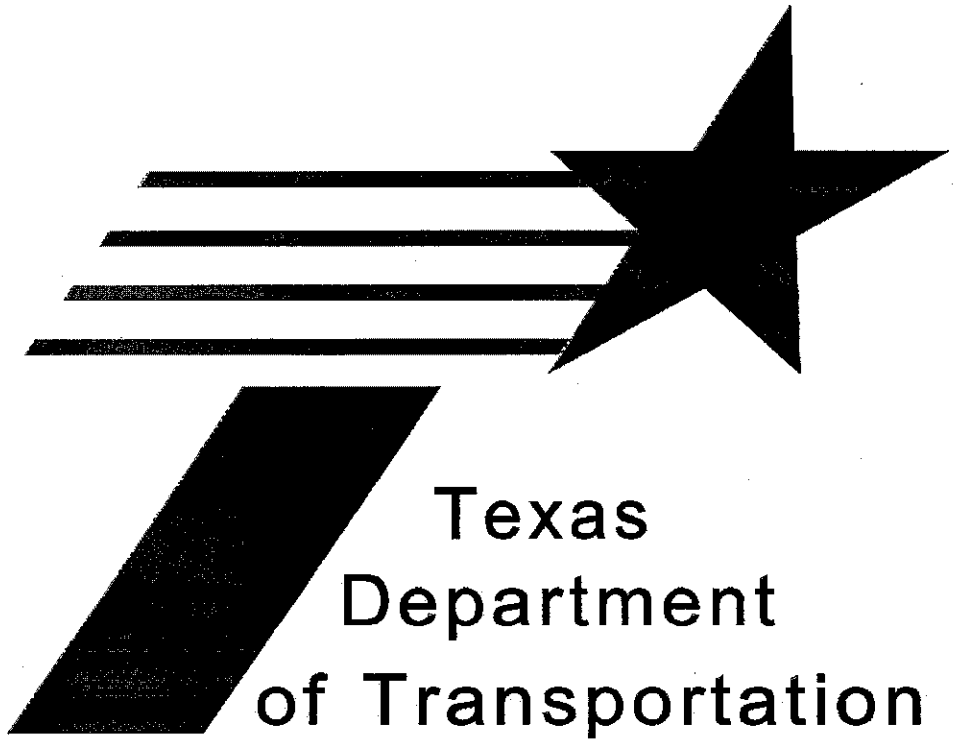
0 500 1000 2000

Carter :: Burgess

03 May 2005
C&B Project 310325.012


Section of Drainageway with Hike/Bike Trail
Undisturbed Riparian Zone
Ephemeral or Wet Creek
Undisturbed Riparian Zone
8'-10' Clearance
8'-12' Multi-Use Trail
18' Clear Zone
28' Selective Clear Zone
Varied Width Riparian Zone

Access Management Manual



Revised June 2004

Published by the Design Division (DES)

Access Management Manual
June 2004

Manual Notices

Manual Notice 2004-1

To: Districts and Divisions

From: Ken Bohuslav, P.E.

Subject: Manual Revision

Manual: *Access Management Manual*

Effective Date: June 1, 2004

Purpose

This manual is intended to provide guidance for access location determination and procedures for municipalities to be granted permitting authority to the state highway system.

Instructions

The access management procedures described in this manual are applicable to all classes of state highways. This revision is intended to correct typographical errors.

Contents

This manual includes chapters on general access management descriptions, access management criteria, administrative procedures, and reference material.

Contact

For general comments and suggestions for future revisions of this manual, contact the Design Division, Roadway Design Section.

Copyright Notice

Manual Notice 2003-1

To: Districts and Divisions

From: Ken Bohuslav, P.E.

Subject: Initial Manual Release

Manual: *Access Management Manual*

Effective Date: January 1, 2004

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Copyright Notice

Chapter 1
Access Management General

Contents:

Section 1
Introduction

Applicability

The access management criteria contained in this manual are applicable to all classes of state highways. This manual also provides a mechanism for municipalities to be granted permitting authority to the state highway system. Municipalities that choose to handle access permitting for state highway system roadways within their jurisdiction can either develop their own access management guidelines or they can adopt the guidelines contained in this manual. Because they have authority to implement subdivision and zoning regulations, municipalities also have the ability to apply a host of access management techniques: shared access, cross access, lot width requirements, driveway throat length, internal street circulation, and general thoroughfare planning. It is through a cooperative relationship between the Department and municipalities that the safety and operational benefits of access management can be fully realized. The following subsection provides an overview of access management and discusses some of its principles.

Overview

Proper access management assists in protecting the substantial public investment in transportation by preserving roadway efficiency and enhancing traffic safety, thus reducing the need for expensive improvements. Furthermore, access management can significantly reduce traffic accidents, personal injury, and property damage. To appreciate how access management fits into the entire spectrum of the roadway network, one should understand that freeways, arterials, collectors, and local streets serve varying levels of through-traffic movement and access to property (see Figure 1-1).

- ***Freeways*** - provide the highest level of mobility and are intended to carry the greatest amount of traffic at the highest speeds. Accordingly, freeway mainlanes provide no direct access to property and access to the freeway mainlanes is provided only at interchanges and ramps.
- ***Arterials*** - provide the next highest level of mobility and are intended to carry substantial amounts of traffic over relatively long distances and at relatively high speeds. Direct property access may be provided but must be carefully managed to preserve arterial mobility and avoid creating unsafe and congested traffic operations.
- ***Collectors*** - provide lower mobility and are intended to carry lower volumes of traffic at lower speeds. Since most of the trips on collectors are shorter distance local trips, these streets can safely provide a higher amount of property access.
- ***Local streets*** - provide the lowest level of mobility and are intended to provide direct access to properties, preserve the neighborhood environment, and enhance pedestrian and bicycle safety.

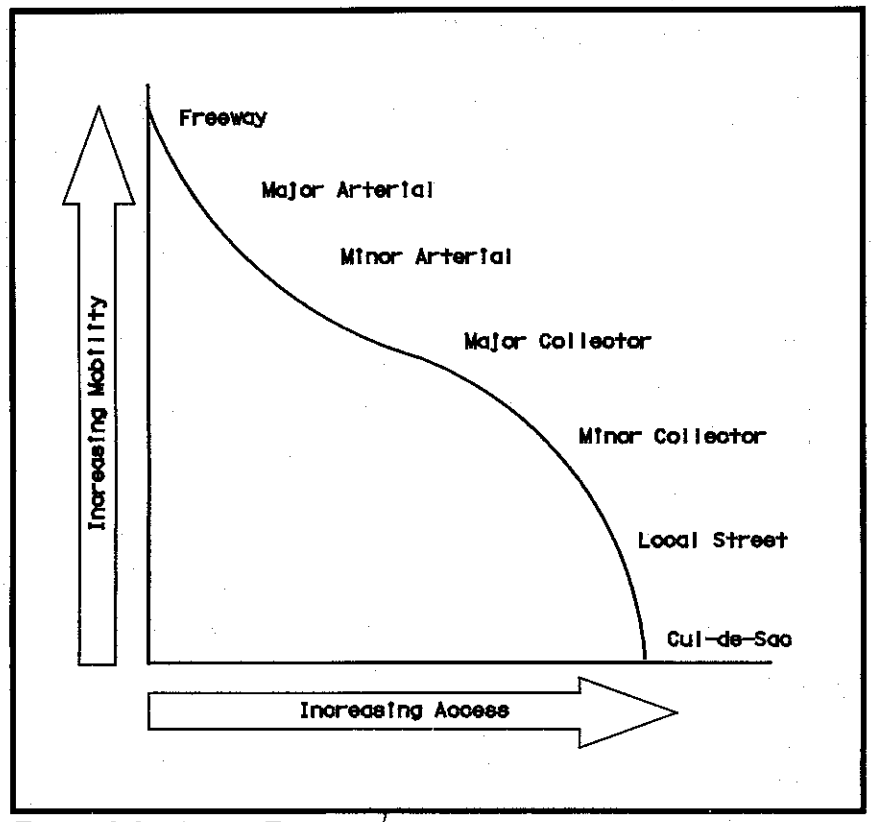

Figure 1-1: Access Function[1]

Section 2
The Benefits of Access Management

Overview

Below are some of the benefits that have been realized in communities with effective access management policies:

- Delaying or preventing costly highway improvements
- Improving roadway safety conditions (reduced crash rates)
- Reducing traffic delay and congestion, which has a positive economic effect on market areas (as seen in Figure 1-4)
- Promoting properly designed access and circulation systems for development
- Improving the appearance of transportation corridors and increasing the area available for landscaping, which can help attract investment and enhance the image of an area
- Providing property owners and customers with safe access to roadways
- Reducing air pollution
- Making pedestrian and bicycle travel safer.

Another significant benefit is that access management requires a more coordinated, long-term approach to land use and transportation; therefore, effective access management promotes intergovernmental cooperation relating to land development and transportation decisions.

Effects on Safety

More than four decades of research conducted throughout the United States have shown that access management improves roadway safety. These safety benefits are attributable to improved access design, fewer traffic conflict locations, and higher driver response time to potential conflicts. Some key findings on the impacts of arterial access management on safety are summarized below.

- ***As access density increases, crash rates increase.*** Relative increases in crash rates are remarkably consistent among the various studies. Figure 1-2 shows composite crash rate indices derived from the analysis of 37,500 crashes, as compared with a synthesis of previous studies[2]. The indices were developed by correlating crash rates with access density - using the crash rates for 10 access points per mile as a base and then averaging crash rates for each access density. For example, these indices suggest that an increase from 10 access points to 20 access points per mile would increase crash rates by roughly 30 percent.

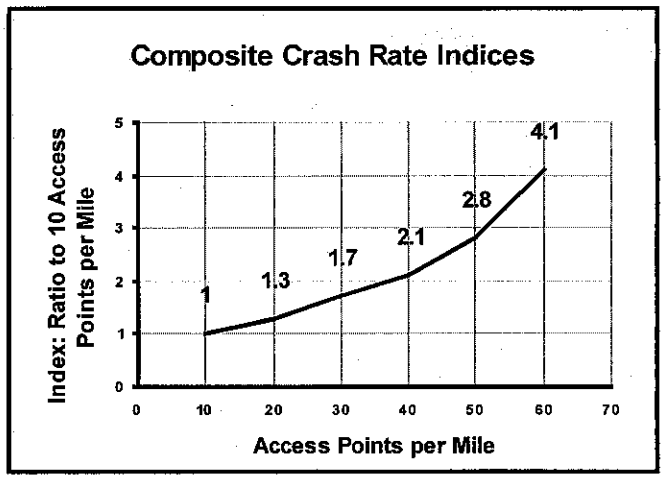

Figure 1-2: Composite Crash Rates

- ***Roadways with nontraversable medians are safer at higher speeds and at higher traffic volumes than undivided roadways or those with continuous two-way left-turn lanes (TWLTL).*** Numerous studies from across the nation have been conducted relating to undivided, TWLTL, and divided roadways with a nontraversable median. Based on studies, it can be concluded that roadways with a nontraversable median have an average crash rate about 30 percent less than roadways with a TWLTL. Table 1-1 summarizes the representative crash rates by median type for urbanized areas. Additionally, where ADT exceeds 20,000 vehicles per day and the demand for mid-block turns is high, a raised median should be considered.[3]

Table 1-1: Accident Rates

Representative Accident Rates (Crashes Per Million VMT) by Type of Median –Urban and Suburban Areas

	Median Type		
Total Access Points Per Mile (1)	**Undivided**	**Two-Way Left-Turn Lane**	**Non Traversable Median**
< 20	3.8	3.4	2.9
20.01-40	7.3	5.9	5.1
40.01-60	9.4	7.9	6.8
> 60	10.6	9.2	8.2
Average Rate	9.0	6.9	5.6

(1) Includes both signalized and unsignalized access points.

Operational Effects

Frequent access connections, median openings, and closely spaced traffic signals are a recipe for congestion on major roadways (See Figure 1-3). Studies of the effects of access management on roadway operations have addressed effects of access spacing on travel time by simulating traffic performance. Collectively, these studies indicate that access management helps to maintain desired speed and reduce delays, which also reduces fuel consumption and vehicle emissions.

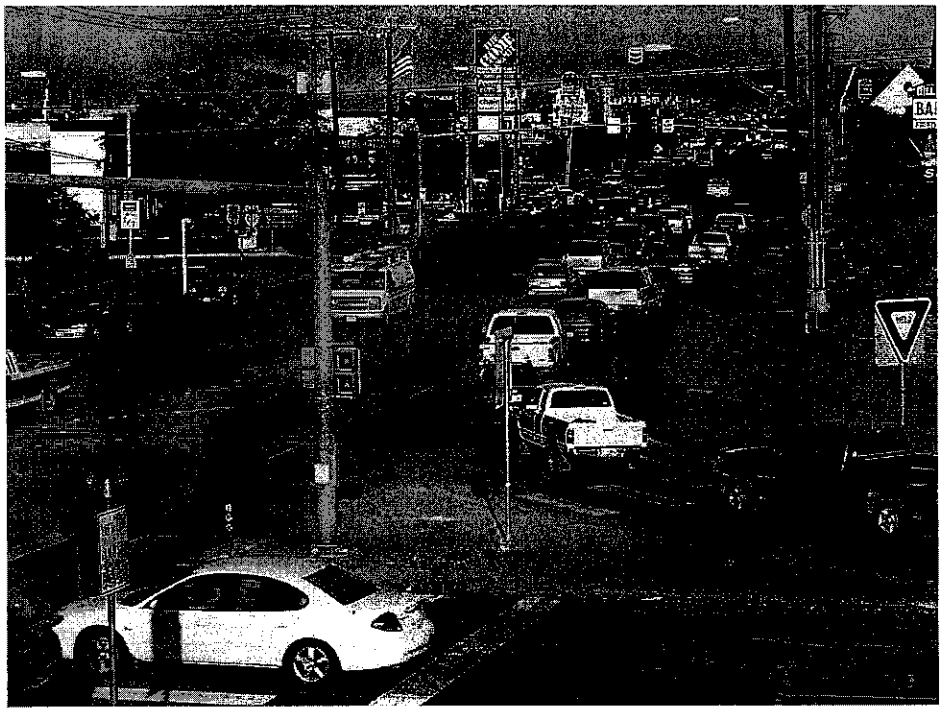

Figure 1-3: Signal Spacing and Queuing

For example, analysis based on procedures in the *Highway Capacity Manual* indicates that the typical reduction in free-flow speed (for one direction) is approximately 0.15 mph per access point and 0.005 mph per right-turning movement per hour per mile of road.[4] Using the *Highway Capacity Manual*, Table 1-2 provides suggested access density adjustment factors for level of service determinations. These benefits extend not only to free-flow conditions, but to platoon flow as well.

Table 1-2: Access Points and Free Flow Speed

Access Points and Free Flow speed	
Access points per mile	**Reduction in free flow speed, mph**
0	0.0
10	2.5
20	5.0
30	7.5
40 or more	10

Other analyses suggest that a four lane divided major roadway with long, uniform signal spacing, directional openings between signals, and auxiliary lanes could accommodate a similar volume and similar quality of service as a six lane divided roadway having traffic signals at ¼-mile intervals, unregulated access between the signals, and no auxiliary lanes.[5]

Minimizing the number of traffic signals and promoting appropriate signal spacing significantly improves travel times. Each traffic signal per mile added to a roadway reduces through travel speed about two to three mph. Table 1-3 indicates percentage increases in travel times that can be expected as signal density increases, using two traffic signals per mile as a base. For example, travel time on a segment with four signals per mile is about 16 percent greater than on a segment with two signals per mile.

Table 1-3: Travel Time and Signal Density

Percentage Increase in Travel Times as Signalized Density Increases	
Signals Per Mile	**Percent Increase in Travel Times (Compared with 2 Signals Per Mile)**
2.0	0
3.0	9
4.0	16
5.0	23
6.0	29
7.0	34
8.0	39

Economic Effects

A safe and efficient transportation system is an important element of a vibrant economy. The quality of the transportation system affects the economy in a variety of ways: it determines how quickly goods get to market, whether an area is attractive to investors, and the size of the market area for a particular business.

For real estate developers, the importance of well designed access and circulation systems cannot be overstated. The Urban Land Institute's (ULI) *Shopping Center Development Handbook* warns that "poorly designed entrances and exits not only present a traffic hazard but also cause congestion that can create a negative image of the center".[6]

The market area for a business is important to its success as well. Closely spaced or poorly designed access connections reduce average travel speeds and increase delay on the roadway. Market area analysis shows that these increases in average travel times result in longer commute times and reduce the market area for businesses. The National Highway Institute reports that inadequate access management can increase travel time and delay by as much as 40 to 60 percent.[7] Yet, even a 10 percent reduction in average travel speeds can cause a business to lose 20% of its market area. Although the average size of market area varies for different types of businesses, the proportionate reduction in market area is the same. This relationship is illustrated in Figure 1-4.

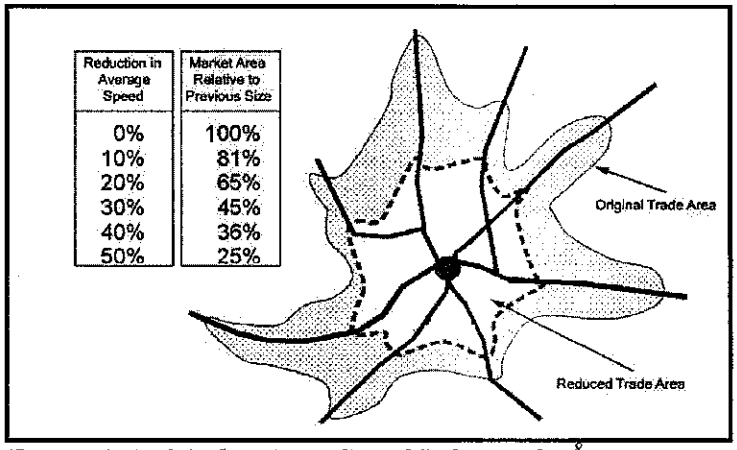

Figure 1-4: Market Area, Speed Relationship[8]

The appearance of a corridor and quality of access to development also impact property values and investment. Property values tend to increase rapidly during commercial development, but can decline after the corridor is built out if the character and efficiency of that corridor have been damaged in the process. This is exemplified by the growing number of older highway commercial strips across the state that are now experiencing economic decline; many such areas are the subjects of revitalization efforts that include access management strategies.

Individual business owners are sometimes concerned about the potential impact of access management requirements on business activity. Studies conducted of businesses within areas where access management has been implemented show that improved driveway spacing and design, alternative access, and installation of nontraversable medians have virtually no adverse impact on business activity. For example, a study of the economic

impacts of left-turn restrictions in College Station, Houston, McKinney, Longview, Wichita Falls, Odessa, Port Arthur, and Amarillo was conducted for the Texas Department of Transportation in the mid 1990s.[9] Key findings relative to access management include the following:

- Business owners reported no change in pass-by traffic after median installation.
- Most business types (including specialty retail, fast-food restaurants, and sit-down restaurants) reported increases in numbers of customers per day and gross sales.
- When asked what factors were important to attracting customers, business owners generally ranked "accessibility to store" lower than customer service, product quality, and product price, and ahead of store hours and distance to travel.

A study of the effects of access management on business vitality was conducted in 1996.[10] Before and after data were collected on a series of corridor case studies. Results indicated that:

- Corridors with completed access management projects performed better in terms of retail sales than the surrounding communities. Business failure rates along access managed corridors were at or below the statewide average.
- Close to 80 percent of businesses reported no customer complaints about access to their businesses after project completion.
- Over 90 percent of motorists surveyed had a favorable opinion of improvements made to roadways that involve access management. The vast majority of motorists thought that the improved roadways were safer and that traffic flow had improved.

The results of these and other studies indicate that access management has little or no adverse impact on business activity. Before and after studies indicate that business owner perceptions of the potential for adverse impacts of access changes tend to be much worse than actual impacts. In addition, levels of business activity often correlate more closely with factors such as competition, the regional economy, quality of management, and other issues unrelated to property access.

Section 3

Definitions

Acceleration Lane: A speed-change lane, including tapered areas, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can more safely merge with through traffic.

Access Connection: Facility for entry and/or exit such as a driveway, street, road, or highway that connects to the highways under the jurisdiction of the department or municipality.

ADT: The average daily traffic volume. It represents the total two-way traffic on a roadway for some period less than a year, divided by the total number of days it represents, and includes both weekday and weekend traffic. Usually, ADT is adjusted for day of the week, seasonal variations, and/or vehicle classification.

Auxiliary Lane: A lane striped for use as an acceleration lane, or deceleration lane, right-turn lane, or left-turn lane, but not for through traffic use.

Connection Spacing: The distance between connections, which is measured along the edge of the traveled way from the closest edge of pavement of the first access connection to the closest edge of pavement of the second access connection.

Capacity: The number of vehicles that can traverse a point or section of a lane or roadway during a set time period under prevailing roadway, traffic, and control conditions.

Corner Clearance: The distance along the edge of the traveled way from the closest edge of pavement of the intersecting roadway to the closest edge of pavement of the nearest access connection.

Corner Lot: A lot located at the intersection of two roadways that has frontage on each roadway.

Deceleration Lane: A speed-change lane, including tapered areas, for the purpose of enabling a vehicle that is exiting a roadway to leave the travel lanes and slow to a safe exit.

Department: The Texas Department of Transportation.

Directional Median Opening: An opening in a nontraversable median that accommodates specific movements, such as U-turn movements and/or left-turn movements from the highway, and physically restricts other movements.

Divided Highway: A highway with a median designed to separate traffic moving in opposite directions.

Field Drive: A limited use driveway for the occasional/infrequent use by equipment used for the purpose of cultivating, planting, and harvesting or maintenance of agricultural land, or by equipment used for ancillary mineral production.

Frontage Road: A local street or road along an arterial highway allowing control of access and service to adjacent areas and property. A frontage road may also be referred to as a service road.

Full Median Opening: In a nontraversable median, an opening that allows all turning movements from the highway and the adjacent connection, as well as crossing movements.

Functional Area (Intersection): The area of an intersection necessary to provide all required storage lengths for separate turn lanes and for through traffic plus any maneuvering distance for separate turn lanes. The functional boundary of an intersection includes more than just the physical area of the intersection.

Intersection: Any at grade connection with a roadway, including two roads or a driveway and a road.

Level of Service (LOS): A measure of traffic flow and congestion. As defined in the *Highway Capacity Manual*, it is a qualitative measure describing operational conditions within a traffic stream, generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.

Limited Access Roadway: A roadway especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or easement of access by reason of the fact that their property abuts such limited access facility or for any other reason. Interstate highways, parkways, and freeways are usually developed as limited-access facilities.

Local Access Management Plan: A plan or guideline in a formally adopted municipality rule or ordinance that is related to the application of access management within the municipality's jurisdiction.

Local Access Road: A local public street or road that is generally parallel to a highway under the jurisdiction of the Department. Access for businesses or properties located between the highway and the local access road is provided to the local access road rather than the highway. A local access road may also be called a lateral road, or reverse frontage road, depending on individual location and application.

Median: That portion of a divided highway separating the opposing traffic flows. A median may be traversable or nontraversable.

Median, Nontraversable: A physical barrier in a roadway or driveway that separates vehicular traffic traveling in opposite directions. Nontraversable medians include physical barriers (such as a concrete barrier, a raised concrete curb and/or island, and a grass or a swale median) that prohibit movement of traffic across the median.

Median Opening Spacing: The allowable spacing between openings in a non-traversable median to allow for crossing the opposing traffic lanes in order to access property or for crossing the median to travel in the opposite direction (U-turn). The distance is measured from centerline to centerline of the openings along the traveled way.

Median, Traversable: A median that by its design does not physically discourage vehicles from entering or crossing over it. This may include painted medians.

Reverse Frontage Road: See "local access road".

Right of Way: A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

Service Road: See "frontage road".

Shared Access: A single connection serving two or more adjoining lots or parcels.

Sight Distance: The distance visible to the driver of a passenger vehicle measured along the normal travel path of a roadway from a designated location and to a specified height above the roadway when the view is unobstructed by traffic.

Signal: A traffic control signal.

Stopping Sight Distance (SSD): The distance required by a driver of a vehicle, traveling at a given speed, to bring the vehicle to a stop after an object on the roadway becomes visible. It includes the distance traveled during driver perception-reaction time and the vehicle braking distance.

Storage Lane Length: The portion of an auxiliary lane required to store the number of vehicles expected to accumulate in the lane during an average peak period.

Temporary Access: Time-limited provision of direct access to a roadway. Such access must be closed when permit conditions for access removal are satisfied. Typically, such conditions relate to such time when adjacent properties develop in accordance with a joint access agreement or frontage road plan.

TxDOT: Texas Department of Transportation.

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[1] TRB Committee on Access Management, *Access Management Manual,* Transportation Research Board, Washington, D.C., 2003.
[2] Gluck, J., H.S. Levinson and V.G. Stover, *NCHRP Report 420: Impacts of Access Management Techniques,* National Cooperative Highway Research Program, Transportation Research Board, Washington, D.C., National Academy Press, 1999.
[3] Texas Department of Transportation (TxDOT), *Roadway Design Manual*, 2002.
[4] Reilly, W., et al., .Capacity and Service Procedures for Multi-lane Rural and Suburban Highways,. *Final Report NCHRP Project 3-33,* JHK & Associates and Midwest Research Institute, May 1989.
[5] S/K Transportation Consultants, Inc., *National Highway Institute Course No. 133078: Access Management, Location and Design,* April 2000.
[6] Urban Land Institute (ULI), *Shopping Center Development Handbook,* Second Edition, Washington, D.C., 1985.
[7] Reilly, W., et al., .Capacity and Service Procedures for Multi-lane Rural and Suburban Highways,. *Final Report NCHRP Project 3-33,* JHK & Associates and Midwest Research Institute, May 1989.
[8] Stover, V. and F. Koepke, *Transportation and Land Development,* Institute for Transportation Engineers (ITE), 1988, 2002.
[9] Eisele, W. and W. Frawley, .A Methodology for Determining Economic Impacts of Raised Medians: Data Analysis on Additional Case Studies,. *Research Report 3904-3,* Texas Transportation Institute, College Station, TX, October 1999.
[10] Iowa State University, *Iowa Access Management Research and Awareness Project: Executive Summary,* 1997.

Chapter 2
Access Management Criteria

Contents:

Section 1
Access Management Classification System

Classification Overview

This section describes the Department's access management classification system and provides guidance for assigning access management criteria to state highways. The criteria in the following sections are designed to preserve highway safety and to assure that each highway's importance to statewide mobility will be considered when evaluating requests for access to a roadway under the jurisdiction of TxDOT. The number, spacing, design, and location of access connections, median openings, turn lanes, and traffic signals have a direct and often significant effect on the safety and operation of the highway. The criteria are necessary to enable the highway to continue to function efficiently and safely in the future, while at the same time providing reasonable access to development.

The criteria and procedures for managing highway access differ for new highways on new alignments versus existing highways. Therefore, new highways on new alignments will be addressed separately.

The access management classification systems discussed in the following sections are:

- New highways on new alignments
- Freeway mainlanes
- Frontage roads
- Other state system highways.

The following sections describe application of the access criteria and the purpose, function, and access management requirements for each of these roadway classifications.

Section 2
Application of Access Criteria

Overview

This section discusses the application of access connection criteria on the state highway system. The criteria are intended to provide reasonable access, while ensuring the safe and efficient operations of each roadway type.

Application of the Criteria

The access connection distances in the following sections are intended for application to state highways where municipalities have not been granted location permitting authority (as described in Chapter 3, Section 1). The access connection distances in the following sections are intended for passenger cars on a level grade. These distances may be increased for downgrades, truck traffic, or where otherwise indicated for the specific circumstances of the site and the roadway. In other cases, shorter distances may be appropriate to provide reasonable access, and such decisions should be based on safety and operational factors supported by an engineering study.

The distance between access connections is measured along the edge of the traveled way from the closest edge of pavement of the first access connection to the closest edge of pavement of the second access connection (Refer to Figure 2-1).

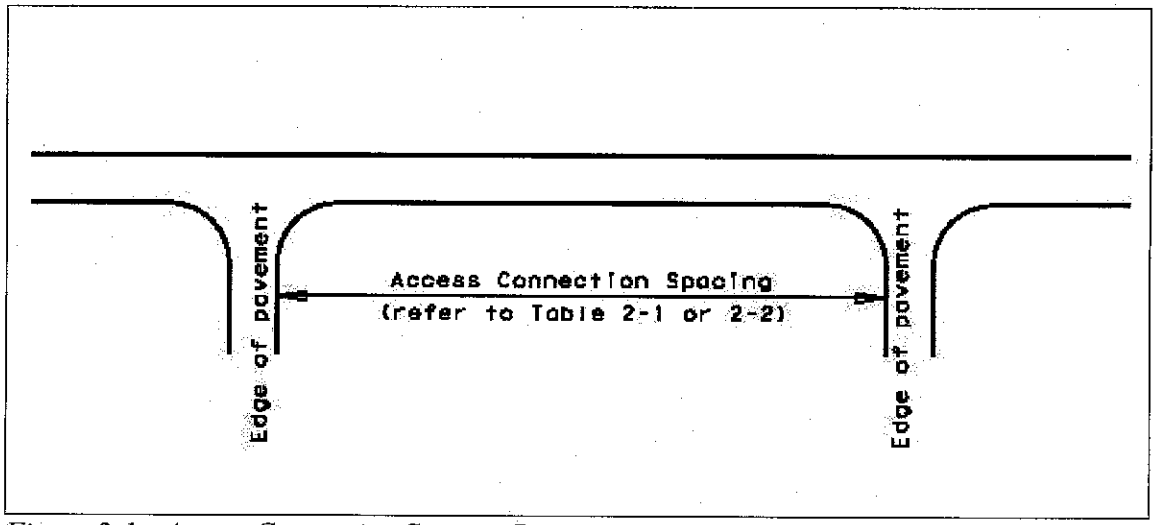


Figure 2-1: Access Connection Spacing Diagram

Conditions for granting access to the state highway system will be stated in the access permit. Violation of the conditions under which the permit was granted, as determined by the Department, may require reevaluation of the access by TxDOT.

Where topography or other existing conditions make it inappropriate or not feasible to conform to the connection spacing intervals, the location of reasonable access will be determined with consideration given to topography, established property ownerships, unique

physical limitations, and/or physical design constraints. The selected location should serve as many properties and interests as possible to reduce the need for additional direct access to the highway. In selecting locations for full movement intersections, preference will be given to public roadways that are on local thoroughfare plans.

Sale of TxDOT Controlled Access

In locations where TxDOT controls the access along the state highway, a request to purchase the access must first be submitted to the local District office and then sent to the TxDOT Administration through the Design Division. If the Administration concurs with the purchase request, then the Commission will consider the sale of the access. It is important to understand that access is an interest in real property and cannot be sold without Commission approval.

While the data will vary based on the individual request or location, information required for submission of a request to sell TxDOT controlled access may include:

- District, county, city, highway, location, and right of way points of proposed access breaks
- Dated chronology of correspondence, meetings, or discussion concerning the access request
- Participants in the request process, including city, county, developers, consultants, legal counsel, etc.
- Any local funding contributions (amount or percentages)
- Highway layout showing the proposed access site and the upstream/downstream roadway system and associated access (including roadway/driveway geometrics if applicable to resolution)
- Future development (both of the roadway and adjacent property)
- Present and future traffic volumes, including turning movements, at intersections and access points within the logical termini
- Any engineering studies or traffic modeling that have been completed
- Unified Transportation Program (UTP) status
- Environmental status
- Right of Way (ROW) status
- District discussion/comments on present and future impacts to the state highway system

Refer to Chapter 3, Section 4 for engineering study and/or Traffic Impact Analysis (TIA) discussion.

Access Management Coordination with Municipalities

Access management techniques that are tailored to a particular highway segment may be established in a corridor access management plan (refer to Chapter 3, Section 3). Also, municipalities that have location permit authority, as described in Chapter 3, Section 1, will govern access connection location decisions within their jurisdiction. Municipalities wanting this authority are encouraged to develop access management guidelines or plans for the state highway system within their jurisdiction, or adopt the Department guidelines.

Granting location permit authority to municipalities does not preclude the need for engineering driveway locations. Any impacts to drainage or hydraulics on the state highway system resulting from access connections must be coordinated with TxDOT prior to any local access location approval. Issuance of access permits by a municipality must address driveway geometrics, utility location/relocation, compliance with the Americans with Disabilities Act (ADA) and Texas Accessibility Standards (TAS), environmental requirements, wetland considerations if appropriate, and all other applicable state and federal laws, rules, and regulations.

Approval of Existing Access and Additional Access Requests

As of the effective date of this manual, all previously permitted access will be "grandfathered" as accepted access. However, property owners must coordinate with the Department or the municipality responsible for access permitting prior to making any property modifications that will result in changes to the traffic patterns associated with the access. [See Chapter 2, Deviation Process (TxDOT as Permitting Authority) for additional discussion.] This paragraph will not operate to convey property rights or eliminate the need to purchase access in locations where TxDOT controls the access.

In areas where local access management guidelines or plans are not in place, municipalities should contact TxDOT, prior to the approval of new developments, with respect to the state highway access that will be provided. This will enable the Department to identify any problems with the proposed access and to suggest alternatives. Early state and local coordination will also help reduce unnecessary delays in the access permitting process.

In the absence of any safety or operational problems, additional access connections may be considered if the size and trip generation potential of the proposed development requires additional access in order to maintain good roadway traffic operations. Any additional access must not interfere with the location, planning, and operation of the public street system. Where the property abuts or has primary access to a lesser function road, to an internal street system, or by means of dedicated access easement, any access to the state highway will be considered as an additional access.

Deviation Process (TxDOT as Permitting Authority)

This deviation process applies except within the jurisdiction of municipalities that have access connection location permit authority. A spacing that is shorter than the minimum allowable, as set forth in this document, is considered a deviation from the guidelines. Deviations shall be submitted to the proper TxDOT District office for a decision. If the deviation is denied by TxDOT, reference can be made to dispute resolution, Chapter 3, Section 2, of this manual.

It should be noted that a lesser connection spacing than set forth in this document may be allowed without deviation in the following situations:

- To keep from land-locking a property where such land-locking is solely the result of action by TxDOT (for example, design and construction modifications which physically prevent a driveway installation due to grade changes, retaining walls, or barrier installations) where TxDOT does not control the access; or
- Replacement or re-establishment of reasonable access to the state highway system under highway reconstruction/rehabilitation projects.

The above references to land-locking do not apply to circumstances where an existing larger tract of land is subsequently (after the effective date of this manual) further subdivided (and the subdivided lots sold to separate owners) and the original tract of land either already has an existing permitted access connection point, or would qualify for such an access connection point based upon the spacing requirements of this manual. Potential land-locking caused by subdivision and resale is the result of such subdivision process and will not alone justify variances or deviations in the spacing requirements contained in this manual. Therefore, as part of the subdividing process, the party proposing the subdivision (and the municipality approving such subdivisions) should require and provide some type of internal access easements to the existing access connection points (or to such access connection point locations that qualify for future permits based on this manual's spacing requirements).

When a deviation is approved for an access connection spacing that is less than the given connection spacing criteria, the permit will include conditions such as the maximum permitted traffic volume to ingress and egress the property or other conditions with respect to granting the deviation. Violation of the conditions under which the deviation was granted may require reevaluation of the access permit, particularly if safety or crash records indicate deteriorated traffic safety on the abutting state highway.

For municipalities that have access connection location permit authority, refer to the deviation procedures outlined in Chapter 3, Section 1.

Median Openings

Median treatments and other design of median openings play a critical role in the operation and safety of roadways. These design requirements are not addressed in this manual. Median design and minimum median opening spacing requirements can be found in the TxDOT *Roadway Design Manual,* Chapters 2 and 3.

Emergency Access

Direct emergency access (to be used by authorized emergency vehicles only) may be permitted if it is not feasible to provide adequate emergency access to a secondary roadway. A written explanation with references to local criteria from an appropriate government public safety official will be included with the permit application.

Field Drives

Field drives will be permitted where, in the determination of TxDOT, the field has no other reasonable access. Typically, one field drive to a property under the same ownership or controlling interest may be granted; additional field drives may be permitted if the necessity for such additional access (due to topography or ongoing agriculture activities) is demonstrated. Field drives will be kept to the minimum necessary in order to provide reasonable access. A permit for a field drive will state the conditions as to its use by agricultural equipment only. A change in the use of the property may require a reevaluation of the access permit as determined by the Department or municipality that has been granted access connection location permit authority.

Section 3

New Highways on New Alignments

Purpose and Functional Criteria

When a new highway is constructed on a new alignment, and the Commission determines that the new highway will be access controlled, direct access to the new highway will be determined prior to right-of-way acquisition and will be described in the right-of-way deeds. (For application of access connections where TxDOT controls the access, refer to Chapter 2, Section 2, Application of Access Criteria).

Such new highways may initially have at-grade intersections, yet be intended for ultimate upgrade to full freeway criteria. In such cases, temporary access may be permitted where a property would otherwise be landlocked. When temporary access is permitted, the access permit will clearly state that the connection is temporary and will identify the terms and conditions of its temporary use and the conditions of the permanent access connection. The permit will also clearly state that the temporary connection will be closed and removed at such time that permanent access becomes available.

Section 4
Freeway Mainlanes

Purpose and Functional Criteria

Freeways are intended to provide a very high degree of mobility. Accordingly, freeway mainlanes provide no direct access to property and access to the freeway mainlanes is provided only at interchanges and ramps. The spacing of interchanges and ramps needs to allow entering and exiting vehicles to weave safely and to provide adequate acceleration/deceleration.

The design of freeways is governed by the TxDOT *Roadway Design Manual*, Chapter 3.

Section 5
Frontage Roads

Overview

This section describes the function and characteristics of freeway frontage roads, including how access connections will be applied along these frontage roads. Frontage roads are roadways that are constructed generally parallel to a freeway or other highway. Figure 2-2 shows a typical frontage road application.

Freeway frontage roads normally have at-grade interchanges with the arterial streets, which are generally perpendicular to the freeway and are grade-separated from the freeway mainlanes. Under fully developed conditions, the at-grade intersections of frontage roads and arterials are typically signalized.

Ramps provide connections between the frontage roads and the freeway. Traffic traveling from an arterial street to the freeway first turns from the arterial onto the frontage road and then travels along the frontage road to a freeway entrance ramp. Traffic traveling from the freeway to an arterial street leaves the freeway by means of an exit ramp that connects to the frontage road and then travels along the frontage road to its intersection with the arterial street.

Other streets may also intersect with frontage roads. By means of these intersections, access is provided between the freeway system and the developments that have access onto these streets.

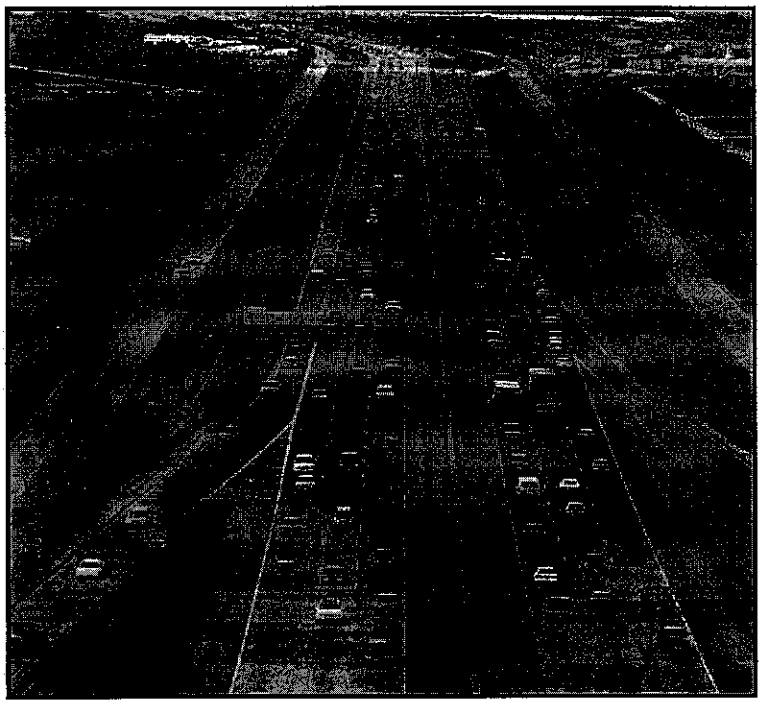


Figure 2-2: Freeway with Frontage Roads

Application of the Criteria

Frontage roads may be considered in order to provide direct access to abutting property where 1) alternative access is not available and the property would otherwise be landlocked, 2) it is not feasible for the Department to purchase the access, and 3) the frontage road allows for improved mobility together with the property access.

Direct access to the frontage road is prohibited in the vicinity of ramp connections, as described in the TxDOT *Roadway Design Manual*, Chapter 3. Otherwise, on roadways where TxDOT does not control the access, access connecting to the frontage road is typically permitted subject to the access connection criteria set forth in this manual. For application of access connections where TxDOT controls the access, refer to Chapter 2, Section 2, Application of Access Criteria.

Connection Spacing Criteria for Frontage Roads

Table 2-1 gives the minimum connection spacing criteria for frontage roads. However, a lesser connection spacing than set forth in this document may be allowed without deviation in the following situations:

- To keep from land-locking a property where such land-locking is solely the result of action by TxDOT (for example, design and construction modifications which physically prevent a driveway installation due to grade changes, retaining walls, or barrier installations) where TxDOT does not control the access; or
- Replacement or re-establishment of reasonable access to the state highway system under highway reconstruction/rehabilitation projects.

The above references to land-locking do not apply to circumstances where an existing larger tract of land is subsequently (after the effective date of this manual) further subdivided (and the subdivided lots sold to separate owners) and the original tract of land either already has an existing permitted access connection point, or would qualify for such an access connection point based upon the spacing requirements of this manual. Potential land-locking caused by subdivision and resale is the result of such subdivision process and will not alone justify variances or deviations in the spacing requirements contained in this manual. Therefore, as part of the subdividing process, the party proposing the subdivision (and the municipality approving such subdivisions) should require and provide some type of internal access easements to the existing access connection points (or to such access connection point locations that qualify for future permits based on this manual's spacing requirements).

It should be noted that for areas with conventional diamond ramp patterns the most critical areas for operations are between the exit ramp and the arterial street and between the arterial street and the entrance ramp. In X-ramp configurations, the most critical areas are between the exit ramp and the subsequent entrance ramp. While Table 2-1 gives minimum connection spacing criteria, the critical areas with respect to the ramp pattern may need greater spacing requirements for operational, safety, and weaving efficiencies.

The distance between access connections is measured along the edge of the traveled way from the closest edge of pavement of the first access connection to the closest edge of

pavement of the second access connection (Refer to Figure 2-1). Additionally, the access connection spacing in the proximity of frontage road U-turn lanes will be measured from the inside edge of the U-turn lane to the closest edge of the first access connection (Refer to Figure 2-3)

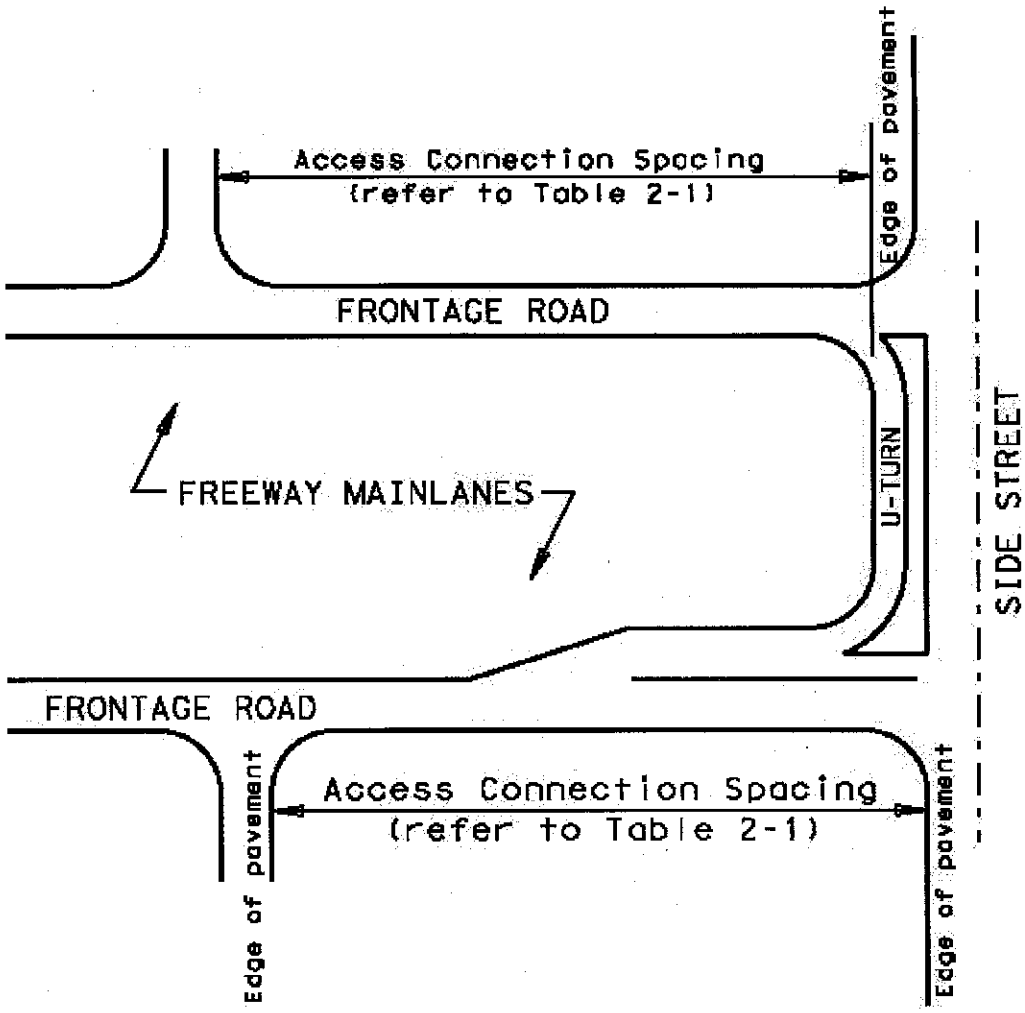


Figure 2-3: Frontage Road U-Turn Spacing Diagram

Table 2- 1: Frontage Road Connection Spacing Criteria

Minimum Connection Spacing Criteria for Frontage Roads[1][2]		
	Minimum Connection Spacing (feet)	
Posted Speed (mph)	**One-Way Frontage Roads**	**Two-Way Frontage Roads**
≤ 30	200	200
35	250	300
40	305	360
45	360	435
≥ 50	425	510

(1) Distances are for passenger cars on level grade. These distances may be adjusted for downgrades and/or significant truck traffic. Where present or projected traffic operations indicate specific needs, consideration may be given to intersection sight distance and operational gap acceptance measurement adjustments.

(2) When these values are not attainable, refer to the deviation process as described in Chapter 3, Section 1 or Chapter 2, Section 2.

Section 6
Other State System Highways

Overview

This section provides a general description of this category and discusses specific spacing requirements. This classification applies to all state highway system routes that are not new highways on new alignments, freeway mainlanes, or frontage roads.

Connection Spacing Criteria

Table 2-2 provides minimum connection spacing criteria for other state system highways. However, a lesser connection spacing than set forth in this document may be allowed without deviation in the following situations:

- To keep from land-locking a property where such land-locking is solely the result of action by TxDOT (for example, design and construction modifications which physically prevent a driveway installation due to grade changes, retaining walls, or barrier installations) where TxDOT does not control the access; or
- Replacement or re-establishment of reasonable access to the state highway system under highway reconstruction/rehabilitation projects.

The above references to land-locking do not apply to circumstances where an existing larger tract of land is subsequently (after the effective date of this manual) further subdivided (and the subdivided lots sold to separate owners) and the original tract of land either already has an existing permitted access connection point, or would qualify for such an access connection point based upon the spacing requirements of this manual. Potential land-locking caused by subdivision and resale is the result of such subdivision process and will not alone justify variances or deviations in the spacing requirements contained in this manual. Therefore, as part of the subdividing process, the party proposing the subdivision (and the municipality approving such subdivisions) should require and provide some type of internal access easements to the existing access connection points (or to such access connection point locations that qualify for future permits based on this manual's spacing requirements).

Table 2-2 does not apply to rural highways outside of metropolitan planning organization boundaries where there is little, if any, potential for development with current ADT volumes below 2000. For those highways, access location and design will be evaluated based on safety and traffic operation considerations. Such considerations may include traffic volumes, posted speed, turning volumes, presence or absence of shoulders, and roadway geometrics.

Table 2- 2: Other State Highways Connection Spacing Criteria

Other State Highways Minimum Connection Spacing[1][2][3]	
Posted Speed (mph)	**Distance (ft)**
≤ 30	200
35	250
40	305
45	360
≥ 50	425

(1) Distances are for passenger cars on level grade. These distances may be adjusted for downgrades and/or significant truck traffic. Where present or projected traffic operations indicate specific needs, consideration may be given to intersection sight distance and operational gap acceptance measurement adjustments.

(2) When these values are not attainable, refer to the deviation process as described in Chapter 3, Section 1 or Chapter 2, Section 2.

(3) Access spacing values shown in this table do not apply to rural highways outside of metropolitan planning organization boundaries where there is little, if any, potential for development with current ADT levels below 2000. Access connection spacing below the values shown in this table may be approved based on safety and operational considerations as determined by TxDOT.

Corner Clearance

Corner clearance refers to the separation of access connections from roadway intersections. Table 2-2 provides minimum corner clearance criteria.

Where adequate access connection spacing cannot be achieved, the permitting authority may allow for a lesser spacing when shared access is established with an abutting property. Where no other alternatives exist, construction of an access connection may be allowed along the property line farthest from the intersection. To provide reasonable access under these conditions but also provide the safest operation, consideration should be given to designing the driveway connection to allow only the right-in turning movement or only the right-in/right out turning movements if feasible.

Section 7

Auxiliary Lanes

Overview

This section describes the basic use and functional criteria associated with auxiliary lanes. Auxiliary lanes consist of left-turn and right-turn movements, deceleration, acceleration, and their associated transitions and storage requirements. Left-turn movements may pose challenges at driveways and street intersections. They may increase conflicts, delays, and crashes and often complicate traffic signal timing. These problems are especially acute at major highway intersections where heavy left-turn movements take place, but also occur where left-turn movements enter or leave driveways serving adjacent land development. As with left-turn movements, right-turn movements pose problems at both driveways and street intersections. Right-turn movements increase conflicts, delays, and crashes, particularly where a speed differential of 10 mph or more exists between the speed of through traffic and the vehicles that are turning right.

Functional Criteria

Table 2-3 presents thresholds for auxiliary lanes. These thresholds represent examples of where left turn and right turn lanes should be considered. Refer to the *TxDOT Roadway Design Manual,* Chapter 3, for proper acceleration and deceleration lengths.

Table 2-3: Auxiliary Lane Thresholds

Median Type	Left Turn to or from Property		Right Turn to or from Property [5]	
	Acceleration	Deceleration	Acceleration	Deceleration
Non-Traversable (Raised median)	(2)	All	Right turn egress > 200vph [4]	♦ > 45mph where right turn volume is > 50vph[3] ♦ ≤ 45 where right turn volume is > 60vph[3]
Traversable (Undivided Road)	(2)	(1)	Same as above	Same as above

(1) Refer to Table 3-11, *TxDOT Roadway Design Manual,* for alternative left-turn-bay operational considerations.

(2) A left-turn acceleration lane may be required if it would provide a benefit to the safety and operation of the roadway. A left-turn acceleration lane is generally not required where the posted speed is 40 mph or less, or where the acceleration lane would interfere with the left-turn ingress movements to any other access connection.

(3) Additional right-turn considerations:

- ♦ Conditions for providing an exclusive right-turn lane when the right-turn traffic volume projections are less than indicated in Table 2-3:
  - High crash experience
  - Heavier than normal peak flow movements on the main roadway
  - Large volume of truck traffic
  - Highways where sight distance is limited
- ♦ Conditions for NOT requiring a right-turn lane where right-turn volumes are more than indicated in Table 2-3:
  - Dense or built-out corridor where space is limited
  - Where queues of stopped vehicles would block the access to the right turn lane
  - Where sufficient length of property width is not available for the appropriate design

(4) The acceleration lane should not interfere with any downstream access connection.

- ♦ The distance from the end of the acceleration lane taper to the next unsignalized downstream access connection should be equal to or greater than the distances found in Table 2-2.
- ♦ Additionally, if the next access connection is signalized, the distance from the end of the acceleration lane taper to the back of the 90th percentile queue should be greater than or equal to the distances found in Table 2-2.

(5) Continuous right-turn lanes can provide mobility benefits both for through movements and for the turning vehicles.[i] Access connections within a continuous right turn lane should meet the spacing requirements found in Table 2-2. However, when combined with crossing left in movements, a continuous right-turn lane can introduce additional operational conflicts.

[i] Florida Department of Transportation (FDOT), Florida's Driveway Handbook, 2002.

Chapter 3
Administrative Procedures

Contents:

Section 1
Approval Process for Local Guidelines

Overview

Municipalities, upon request, may use their own access management guidelines to determine appropriate access connection locations. Local access management guidelines will then apply to all or part, as stated in the guidelines, of the state highway system within that municipal jurisdiction, except where the Department controls the access. The local access management guidelines or plans should be based on sound engineering practices and accepted access management principles. There are two approaches for municipalities to apply their local access management plans or guidelines to state highways within that municipal jurisdiction.

Application Local Access Management Plans (TxDOT as Permitting Authority)

TxDOT will apply a local access management plan when the municipality provides in writing its local access management plan to the TxDOT district office with an indication of its desire that the plan be applied within its jurisdiction and an implementation date. TxDOT will implement any subsequent changes to the local access management plan when the municipality submits the changes to TxDOT with a proposed implementation date for the changes. The approval of the design and engineering of the access location will be handled by TxDOT. TxDOT will issue the access location permits.

Application Local Access Management Plans (Municipality as Permitting Authority)

A municipality that desires to undertake the access permitting process on highways on the state highway system within their jurisdiction shall submit in writing its proposed permitting procedures and an implementation date to TxDOT. If TxDOT determines that the proposed procedures adequately address the engineering and design of access locations as described in this manual in Chapter 3, Section 1, Engineering Access Locations, TxDOT will transfer to the municipality the access permitting function within the municipality's jurisdiction. The municipality will then issue the access permits.

The municipality shall submit to the Department a copy of each approved access permit on the state highway system within ten working days of its approval and prior to initiation of any access construction on the state highway system. The contractor installing the access connection should have a copy of the permit at the site.

A municipality may also choose to adopt the Department's guidelines as their own and retain access connection location permit authority. Access location permit authority may be transferred to the municipality by letter from the TxDOT District Engineer and then, at the next opportunity, incorporated into the municipal maintenance agreement between TxDOT and the participating authority. For example, if a city actively applies its subdivision regulations within its extraterritorial jurisdiction (ETJ), the municipal maintenance agreement may also extend the municipality's access permitting authority to the ETJ rather than the corporate limits.

Assumption of Permitting Function Optional

Municipalities are not required to take over the access permitting function for state highways within their jurisdictions.

Engineering Access Locations

Granting location permit authority to municipalities does not preclude the need to properly engineer access locations. Any impacts to drainage or hydraulics on highways on the state highway system resulting from access connections must be coordinated with TxDOT prior to any local access approval. Issuance of access permits must address driveway geometrics, utility location/relocation, compliance with the Americans with Disabilities Act (ADA) and Texas Accessibility Standards (TAS), environmental requirements, wetland considerations if appropriate, and all other applicable state and federal laws, rules, and regulations.

Deviation Process (Municipality as Permitting Authority)

Any deviation from the municipality's criteria shall be handled by the appropriate local appeals procedure (which shall be determined by the municipality). While the municipality will approve/disapprove individual deviations to the local access management plans or guidelines, the deviation should be coordinated with TxDOT prior to resolution of the deviation request to evaluate impacts to the state highway system.

Submission of Local Access Management Plans

Once the TxDOT District has transferred to the municipality the access permitting function within the municipal jurisdiction, a copy of the local access management plan and implementation date will be sent to the Design Division for record purposes. Also, when TxDOT will be the permitting authority and apply a local access management plan within a municipal jurisdiction, a copy of that local access management plan and implementation date will be sent to the Design Division.

Subsequent changes or updates to local access management plans and new implementation dates will be sent to the Design Division for record purposes.

The Design Division can be consulted on local access management plan development or implementation at the TxDOT District's request.

Section 2
Dispute Resolution

Dispute Resolution Process (TxDOT as Permitting Authority)

It is preferable that access requests to the state highway system be resolved at the District level. However, a dispute over a request for an access permit to the state highway system may be elevated through the Design Division to the TxDOT Administration for final resolution. Such elevation may be initiated either by the District, or by the permit applicant through the District office.

When an access connection request has been denied by the District, the appeal, if requested, must be submitted to the Design Division. The Design Division will coordinate the information needed for final resolution and make a recommendation for the Administration to consider in determining final resolution.

In the case where a municipality has access permitting authority, the permit requestor cannot appeal a denial of access to the Department as described above.

Data Requirements for Final Administrative Resolution (Design Division)

While the data will vary based on the individual request or location, information required for submission of an access request for final administrative resolution should include:

1. District, county, city, highway, and location
2. Dated chronology of correspondence, meetings, or discussion concerning the access request
3. Participants in the request process, including city, county, developers, consultants, legal counsel, etc.
4. Status of municipal platting/zoning requests and any city council actions or resolutions
5. Highway layout showing the requested access site and the upstream/downstream roadway system and associated access (including roadway/driveway geometrics if applicable to resolution)
6. TIA as indicated in Chapter 3, Section 4.
7. The requestor's proposed access solution
8. The District's proposed access solution
9. District discussion/comments with respect to the access request.

The TxDOT Administration will determine final resolution of the access request and the District will issue the access permits based on the Administration's final resolution. Once the Administration has determined a final resolution of the access request, no additional appeal or dispute resolution will be granted.

Section 3
Corridor Access Management Plans

Overview

Any municipality or Metropolitan Planning Organization may, in cooperation with TxDOT, develop an access management plan for a specified state highway segment for the purposes of preserving or enhancing that highway's safe and efficient operation. Once adopted by the affected agencies, such plans will form the basis for all future access connection locations. Priority in developing corridor access management plans should be placed on those facilities with high traffic volumes or those that provide important statewide or regional connectivity and mobility, such as hurricane evacuation routes, relief routes, and NAFTA corridors.

Functional Criteria

The corridor access management plan will provide comprehensive area-wide traffic and mobility solutions, while providing reasonable access to abutting property. Each plan should include a combination of policy, design, and improvement actions aimed at achieving access management objectives. These plans should emphasize the host of access management techniques: shared access, cross access, internal street circulation, properly spaced collector system, proper driveway design, and median design techniques.

The corridor access management plan may include the following elements:

- Existing and future access locations
- All major access-related roadway design elements
- Lots or parcels currently having frontage on the highway segment
- Pedestrian and bicycle amenities and associated safety implication
- Transit facility considerations
- All supporting technical materials, if applicable.

TxDOT and any local government within the plan area should be parties to the plan, which will then be adopted by agreement among the agencies. After an access management plan is in effect, all action taken in regard to access will be in conformance with the plan and any modifications to the plan must be approved by the affected local governments and TxDOT.

Section 4
Engineering Analysis

Overview

Engineering studies or analyses can be used to assist in the evaluation of future access connections to the state highway system. In many cases, such as low volume or rural access connections, an engineering study will not be needed. For locations where TxDOT is the permitting authority, the need for an engineering study, and the level of detail, will be determined by TxDOT. In the case of a dispute resolution, the Design Division can request an engineering study and specify the level of study detail.

The purpose of an engineering study is to determine the safety, mobility, and operational impacts that the access connection will have on the highway system. While not applicable to TxDOT, municipalities may require that such studies also determine the compatibility between the proposed land use and the transportation network.

Early Coordination

As early as possible in the development process, applicants are encouraged to meet with the local TxDOT staff, and the municipality if applicable, to discuss specific requirements associated with obtaining access to the state highway system. This meeting, in addition to bringing all affected parties together regarding access connection issues, will also help to define the requirements of any needed engineering study.

Concurrence with Local Guidelines

If the proposed development is within a jurisdictional boundary and the municipality has engineering study or traffic impact analysis guidelines in place, then the applicant is required to adhere to the municipality's guidelines.

Questions to Consider

When determining the need for and level of detail of an engineering study, the following questions should be considered:

- Do the proposed driveway(s) meet the minimum spacing requirements per Tables 2-1 and 2-2 (or local requirements, as applicable)?
- Will the proposed driveway(s) require a deceleration or acceleration lane? If so, refer to the TxDOT *Roadway Design Manual* for lengths and other design criteria.
- Are there any sight distance or physical obstructions that will result in a safety problem?
- Are there any environmental or hydraulic issues associated with the proposed driveway(s)?

The responses to the above list of questions will assist in determining the level of detail required in an engineering study.

If necessary, specifics regarding needed level of study, time of day analysis, phasing of development, and project area can be defined and agreed upon at the initial coordination meeting. Additional information and analysis may be required if the access connection cannot meet the minimum spacing requirements, or there is an operational or safety impact.

Engineering Study versus Traffic Impact Analysis (TIA)

A Traffic Impact Analysis (TIA), the requirements of which are described below, may be required when the sale of TxDOT controlled access is requested. The following section outlines the purpose and requirements of an engineering study and a TIA.

In nearly all other cases where the access requirements set forth herein are satisfied, a TIA will *not* be required. Typically, the impacts of an access point along a state facility can be ascertained by means of an engineering study that indicates the forecasted turning movements at the proposed access connections. The forecasted turning movements, used in conjunction with the *TxDOT Roadway Design Manual,* will determine the need for and the required length of left-turn and/or right-turn deceleration lanes.

Requirements for Engineering Studies and TIAs

The intent of this section of the *Access Management Manual* is to identify the possible criteria for engineering studies and TIAs. It is by no means meant to minimize the need for the applicant to meet with the local TxDOT District staff to determine the study's requirements. It is the intent of TxDOT to require only those elements of an engineering study or TIA that are necessary to answer the specific questions that arise during the permitting process for specific access points. It is not the intent of TxDOT to require an exhaustive TIA for every application for a driveway permit on a state roadway. The early coordination meeting, as discussed above, will be the mechanism to identify whether or not an engineering study or TIA is necessary and, if so, the level of detail that will be required.

Engineering Study. Should an engineering study be required, it may include the following elements: trip generation, trip distribution, and traffic assignment at the proposed access points. Additionally, the engineering study may require that existing traffic volume data be collected.

The trip generation will be conducted using the latest edition of the Institute of Transportation Engineers *Trip Generation* manual unless there is acceptable data that supports the use of another trip generation source. Trip distribution will be performed with input from the local TxDOT District staff (and the municipality, if applicable). The traffic assignment will be conducted to determine the forecasted turning movements attributable to the proposed development. The existing traffic counts will be grown using an annual growth rate as agreed to by the local TxDOT District staff (and the municipality, if applicable) to the build-out year of the proposed development. As an example, if the proposed development will take two years to construct and occupy, the existing traffic volumes will be grown by the agreed upon growth factor for two years. The resulting traffic volumes will be used as background traffic volumes, and the assigned forecasted turning movements will be added to the background traffic volumes resulting in the total traffic volumes.

The total traffic volumes will be used to determine the need for left-turn and right-turn lanes. If such lanes are needed, refer to the TxDOT *Roadway Design Manual* to determine their lengths and other design criteria.

TIA. In the rare instances where a TIA is required by TxDOT, it may include the above mentioned elements as well as the same type of data for intersections adjacent to the proposed site (specific study limits to be defined by TxDOT). Additionally, the TIA may require operational analyses (including LOS and capacity analyses) for the study intersections as determined during the initial meeting between the applicant and the local TxDOT District staff. Furthermore, the applicant's TIA should include recommendations for mitigation measures should the impact of the proposed access point(s) on the state highway system result in unacceptable levels of service.

Examples of Levels of Engineering Studies

This section presents examples of scenarios under which an engineering study or TIA would likely be required by TxDOT and the level of detail that would be needed to address the issues associated with the requested access connection. These scenarios are for illustration purposes only and should not be used as thresholds for study level requirements.

The first scenario involves a request that meets the driveway spacing criteria, but is a major development that consists of more than 200,000 square feet of retail development along with associated pad-type developments. Even though the driveway spacing criteria (as defined herein) have been met, it is important for TxDOT to understand the impacts that this large development will have on the adjacent roadway network and the intersections adjacent to the site. The parameters of the engineering study or TIA would be defined by TxDOT based upon the characteristics of the existing traffic, the major intersections relative to the site access, and other operational or safety concerns. Additionally, the engineering study or TIA would likely examine multiple phases of development, assuming that the entire site will not be developed at one time. The phased study or TIA would enable TxDOT to determine the necessary mitigation measures for each phase of development and the specific improvements that should be in place to accommodate the development's traffic. As stated previously, the intent of a TxDOT required engineering study or TIA is not to determine the compatibility of the land use with the surrounding area, but rather to determine the impact of the development and its associated traffic volumes on the state roadway.

The second scenario involves the application for a driveway for a small development such as a single residential unit, single retail unit, or similar land use. The driveway spacing requirements set forth herein are satisfied by the applicant. The existing traffic volumes along the state roadway are relatively low. Neither an engineering study nor TIA would be required in this scenario.

A third scenario would be the application for a driveway for a moderate-sized development that meets the spacing criteria outlined herein, but that raises questions about the proper length of a right-turn deceleration lane as well as the need for a left-turn lane. The TxDOT staff may require an engineering study to examine the issues at hand. The applicant would need to provide forecasted turning movement volumes at the subject driveway location as well as background traffic volumes that will also pass through the intersection. These forecasted volumes, along with the state roadway's design speed, can then be used in conjunction with the TxDOT *Roadway Design Manual* to determine if a right-turn deceleration lane and/or left-turn lane is needed. If it is determined that a left-turn lane is necessary, an operational analysis can be performed by the applicant to determine the appropriate length of the left-turn lane.

The fourth scenario involves an application for a driveway that does not meet the spacing requirements set forth herein. If necessary, TxDOT may request an engineering study or TIA to determine the operational impacts of the proposed driveway on the existing state roadway and adjacent driveways or intersections. The level of detail of this study or TIA will be dependent upon the intensity of the traffic expected to be generated by the planned development. The study may include trip generation, distribution and assignment, but may also include operational analyses at the proposed driveway and the adjacent intersections

and driveways. Further analyses may be necessary to determine the operational and safety impacts of the sub-standard spacing on the overall roadway system.

LOCAL GOVERNMENT CODE
CHAPTER 42. EXTRATERRITORIAL JURISDICTION OF MUNICIPALITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. PURPOSE OF EXTRATERRITORIAL JURISDICTION. The legislature declares it the policy of the state to designate certain areas as the extraterritorial jurisdiction of municipalities to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities.
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. DETERMINATION OF EXTRATERRITORIAL JURISDICTION

Sec. 42.021. EXTENT OF EXTRATERRITORIAL JURISDICTION. The extraterritorial jurisdiction of a municipality is the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located:

(1) within one-half mile of those boundaries, in the case of a municipality with fewer than 5,000 inhabitants;

(2) within one mile of those boundaries, in the case of a municipality with 5,000 to 24,999 inhabitants;

(3) within two miles of those boundaries, in the case of a municipality with 25,000 to 49,999 inhabitants;

(4) within 3-1/2 miles of those boundaries, in the case of a municipality with 50,000 to 99,999 inhabitants; or

(5) within five miles of those boundaries, in the case of a municipality with 100,000 or more inhabitants.
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.022. EXPANSION OF EXTRATERRITORIAL JURISDICTION. (a) When a municipality annexes an area, the extraterritorial jurisdiction of the municipality expands with the annexation to comprise, consistent with Section 42.021, the area around the new municipal boundaries.

(b) The extraterritorial jurisdiction of a municipality may expand beyond the distance limitations imposed by Section 42.021 to include an area contiguous to the otherwise existing extraterritorial jurisdiction of the municipality if the owners of the area request the expansion.

(c) The expansion of the extraterritorial jurisdiction of a municipality through annexation, request, or increase in the number of inhabitants may not include any area in the existing extraterritorial jurisdiction of another municipality.
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.0225. EXTRATERRITORIAL JURISDICTION AROUND CERTAIN MUNICIPALLY OWNED PROPERTY. (a) This section applies only to an area owned by a municipality that is:

(1) annexed by the municipality; and

(2) not contiguous to other territory of the municipality.

(b) Notwithstanding Section 42.021, the annexation of an area described by Subsection (a) does not expand the extraterritorial jurisdiction of the municipality.
Added by Acts 1999, 76th Leg., ch. 1167, Sec. 1, eff. Sept. 1, 1999.

Sec. 42.023. REDUCTION OF EXTRATERRITORIAL JURISDICTION. The extraterritorial jurisdiction of a municipality may not be reduced unless the governing body of the municipality gives its written consent by ordinance or resolution,

except in cases of judicial apportionment of overlapping extraterritorial jurisdictions under Section 42.901.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.024. TRANSFER OF EXTRATERRITORIAL JURISDICTION BETWEEN CERTAIN MUNICIPALITIES. (a) In this section:

(1) "Adopting municipality" means a home-rule municipality with a population of less than 25,000 that purchases and appropriates raw water for its water utility through a transbasin diversion permit from one or two river authorities in which the municipality has territory.

(2) "Releasing municipality" means a home-rule municipality with a population of more than 450,000 that owns an electric utility, that has a charter provision allowing for limited-purpose annexation, and that has annexed territory for a limited purpose.

(b) The governing body of an adopting municipality may by resolution include in its extraterritorial jurisdiction an area that is in the extraterritorial jurisdiction of a releasing municipality if:

(1) the releasing municipality does not provide water, sewer services, and electricity to the released area;

(2) the owners of a majority of the land within the released area request that the adopting municipality include in its extraterritorial jurisdiction the released area;

(3) the released area is:

(A) adjacent to the territory of the adopting municipality;

(B) wholly within a county in which both municipalities have territory; and

(C) located in one or more school districts, each of which has the majority of its territory outside the territory of the releasing municipality;

(4) the adopting municipality adopts ordinances or regulations within the released area for water quality standards relating to the control or abatement of water pollution that are in conformity with those of the Texas Natural Resource Conservation Commission applicable to the released area on January 1, 1995;

(5) the adopting municipality has adopted a service plan to provide water and sewer service to the area acceptable to the owners of a majority of the land within the released area; and

(6) the size of the released area does not exceed the difference between the total area within the extraterritorial jurisdiction of the adopting municipality, exclusive of the extraterritorial jurisdiction of the releasing municipality, on the date the resolution was adopted under this subsection, as determined by Section 42.021, and the total area within the adopting municipality's extraterritorial jurisdiction on the date of the resolution.

(c)(1) The service plan under Subsection (b)(5) shall include an assessment of the availability and feasibility of participation in any regional facility permitted by the Texas Natural Resource Conservation Commission in which the releasing municipality is a participant and had plans to provide service to the released area. The plan for regional service shall include:

(A) proposed dates for providing sewer service through the regional facility;

(B) terms of financial participation to provide sewer service to the released area, including rates proposed for service sufficient to reimburse the regional participants over a reasonable time for any expenditures associated with that portion of the regional facility designed or constructed to serve the released area as of January 1, 1993; and

(C) participation by the adopting municipality in governance of the regional facility based on the percentage of land to be served by the regional facility in the released area compared to the total land area to be served by the regional facility.

(2) The adopting municipality shall deliver a copy of the service plan to the releasing municipality and any other participant in any regional facility described in this subsection at least 30 days before the resolution to assume extraterritorial jurisdiction. The releasing municipality and any other participant in any regional facility described in this subsection by resolution shall, within 30 days of delivery of the service plan, either accept that portion of the service plan related to participation by the adopting municipality in the regional facility or propose alternative terms of participation.

(3) If the adopting municipality, the releasing municipality, and any other participant in any regional facility described in this subsection fail to reach agreement on the service plan within 60 days after the service plan is delivered, any municipality that is a participant in the regional facility or any owner of land within the area to be released may appeal the matter to the Texas Natural Resource Conservation Commission. The Texas Natural Resource Conservation Commission shall, in its resolution of any differences between proposals submitted for review in this subsection, use a cost-of-service allocation methodology which treats each service unit in the regional facility equally, with any variance in rates to be based only on differences in costs based on the time service is provided to an area served by the regional facility. The Texas Natural Resource Conservation Commission may allow the adopting municipality, the releasing municipality, or any other participant in any regional facility described in this subsection to withdraw from participation in the regional facility on a showing of undue financial hardship.

(4) A decision by the Texas Natural Resource Conservation Commission under this subsection is not subject to judicial review, and any costs associated with the commission's review shall be assessed to the parties to the decision in proportion to the percentage of land served by the regional facility subject to review in the jurisdiction of each party.

(5) The releasing municipality shall not, prior to January 1, 1997, discontinue or terminate any interlocal agreement, contract, or commitment relating to water or sewer service that it has as of January 1, 1995, with the adopting municipality without the consent of the adopting municipality.

(d) On the date the adopting municipality delivers a copy of the resolution under Subsection (b) to the municipal clerk of the releasing municipality, the released area shall be included in the extraterritorial jurisdiction of the adopting municipality and excluded from the extraterritorial jurisdiction of the releasing municipality.

(e) If any part of a tract of land, owned either in fee simple or under common control or undivided ownership, was or becomes split, before or after the dedication or deed of a portion of the land for a public purpose, between the extraterritorial jurisdiction of a releasing municipality and the jurisdiction of another municipality, or is land

described in Subsection (b)(3)(C), the authority to act under Chapter 212 and the authority to regulate development and building with respect to the tract of land is, on the request of the owner to the municipality, with the municipality selected by the owner of the tract of land. The municipality selected under this subsection may also provide or authorize another person or entity to provide municipal services to land subject to this subsection.

(f) Nothing in this section requires the releasing municipality to continue to participate in a regional wastewater treatment plant providing service, or to provide new services, to any territory within the released area.

(g) This section controls over any conflicting provision of this subchapter.

Added by Acts 1995, 74th Leg., ch. 766, Sec. 1, eff. Aug. 28, 1995.

Sec. 42.025. RELEASE OF EXTRATERRITORIAL JURISDICTION BY CERTAIN MUNICIPALITIES. (a) In this section, "eligible property" means any portion of a contiguous tract of land:

(1) that is located in the extraterritorial jurisdiction of a municipality within one-half mile of the territory of a proposed municipal airport;

(2) for which a contract for land acquisition services was awarded by the municipality; and

(3) that has not been acquired through the contract described by Subdivision (2) for the proposed municipal airport.

(b) The owner of eligible property may petition the municipality to release the property from the municipality's extraterritorial jurisdiction not later than June 1, 1996. The petition must be filed with the secretary or clerk of the municipality.

(c) Not later than the 10th day after the date the secretary or clerk receives a petition under Subsection (b), the municipality by resolution shall release the eligible property from the extraterritorial jurisdiction of the municipality.

(d) Eligible property that is released from the extraterritorial jurisdiction of a municipality under Subsection (c) may be included in the extraterritorial jurisdiction of another municipality if:

(1) any part of the other municipality is located in the same county as the property; and

(2) the other municipality and the owner agree to the inclusion of the property in the extraterritorial jurisdiction.

Added by Acts 1995, 74th Leg., ch. 788, Sec. 1, eff. June 16, 1995. Renumbered from V.T.C.A., Local Government Code Sec. 42.024 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(64), eff. Sept. 1, 1997.

Sec. 42.026. LIMITATION ON EXTRATERRITORIAL JURISDICTION OF CERTAIN MUNICIPALITIES. (a) In this section, "navigable stream" has the meaning assigned by Section 21.001, Natural Resources Code.

(b) This section applies only to an area that is:

(1) located in the extraterritorial jurisdiction of a home-rule municipality that has a population of 60,000 or less and is located in whole or in part in a county with a population of 240,000 or less;

(2) located outside the county in which a majority of the land area of the municipality is located; and

(3) separated from the municipality's corporate boundaries by a navigable stream.

(c) A municipality that, on August 31, 1999, includes that area in its extraterritorial jurisdiction shall, before January 1, 2000:

(1) adopt an ordinance removing that area from the municipality's extraterritorial jurisdiction; or

(2) enter into an agreement with a municipality located in the county in which that area is located to transfer that area to the extraterritorial jurisdiction of that municipality.

(d) If the municipality that is required to act under Subsection (c) does not do so as provided by that subsection, the area is automatically removed from the extraterritorial jurisdiction of that municipality on January 1, 2000.

(e) Section 42.021 does not apply to a transfer of extraterritorial jurisdiction under Subsection (c)(2).

Added by Acts 1999, 76th Leg., ch. 1494, Sec. 1, eff. Aug. 30, 1999.

SUBCHAPTER C. CREATION OF GOVERNMENTAL ENTITIES IN EXTRATERRITORIAL JURISDICTION

Sec. 42.041. MUNICIPAL INCORPORATION IN EXTRATERRITORIAL JURISDICTION. (a) A municipality may not be incorporated in the extraterritorial jurisdiction of an existing municipality unless the governing body of the existing municipality gives its written consent by ordinance or resolution.

(b) If the governing body of the existing municipality refuses to give its consent, a majority of the qualified voters of the area of the proposed municipality and the owners of at least 50 percent of the land in the proposed municipality may petition the governing body to annex the area. If the governing body fails or refuses to annex the area within six months after the date it receives the petition, that failure or refusal constitutes the governing body's consent to the incorporation of the proposed municipality.

(c) The consent to the incorporation of the proposed municipality is only an authorization to initiate incorporation proceedings as provided by law.

(d) If the consent to initiate incorporation proceedings is obtained, the incorporation must be initiated within six months after the date of the consent and must be finally completed within 18 months after the date of the consent. Failure to comply with either time requirement terminates the consent.

(e) This section applies only to the proposed municipality's area located in the extraterritorial jurisdiction of the existing municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.042. CREATION OF POLITICAL SUBDIVISION TO SUPPLY WATER OR SEWER SERVICES, ROADWAYS, OR DRAINAGE FACILITIES IN EXTRATERRITORIAL JURISDICTION. (a) A political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage, may not be created in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this subsection and the Water Code. In giving its consent, the municipality may not place any conditions or other restrictions on the creation of the political subdivision other than those expressly permitted by Section 54.016(e), Water Code.

(b) If the governing body fails or refuses to give its consent for the creation of the political subdivision on mutually agreeable terms within 90 days after the date it receives a written request for the consent, a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision may petition the governing body to make available to the area the water, sanitary sewer services, or both that would be provided by the political subdivision.

(c) If, within 120 days after the date the governing body receives the petition, the governing body fails to make a contract with a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision to provide the services, that failure constitutes the governing body's consent to the creation of the proposed political subdivision.

(d) The consent to the creation of the political subdivision is only an authorization to initiate proceedings to create the political subdivision as provided by law.

(e) Repealed by Acts 1997, 75th Leg., ch. 1070, Sec. 55, eff. Sept. 1, 1997.

(f) If the municipality fails or refuses to give its consent to the creation of the political subdivision or fails or refuses to execute a contract providing for the water or sanitary sewer services requested within the time limits prescribed by this section, the applicant may petition the Texas Natural Resource Conservation Commission for the creation of the political subdivision or the inclusion of the land in a political subdivision. The commission shall allow creation of the political subdivision or inclusion of the land in a proposed political subdivision on finding that the municipality either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. The commitment must provide that construction of the facilities necessary to serve the land will begin within two years and will be substantially completed within 4-1/2 years after the date the petition was filed with the municipality.

(g) On an appeal taken to the district court from the Texas Natural Resource Conservation Commission's ruling, all parties to the commission hearing must be made parties to the appeal. The court shall hear the appeal within 120 days after the date the appeal is filed. If the case is continued or appealed to a higher court beyond the 120-day period, the court shall require the appealing party or party requesting the continuance to post a bond or other adequate security in the amount of damages that may be incurred by any party as a result of the appeal or delay from the commission action. The amount of the bond or other security shall be determined by the court after notice and hearing. On final disposition, a court may award damages, including any damages for delays, attorney's fees, and costs of court to the prevailing party.

(h) A municipality may not unilaterally extend the time limits prescribed by this section through the adoption of preapplication periods or by passage of any rules, resolutions, ordinances, or charter provisions. However, the municipality and the petitioner may jointly petition the Texas Natural Resource Conservation Commission to request an extension of the time limits.

(i) Repealed by Acts 1989, 71st Leg., ch. 1058, Sec. 1, eff. Sept. 1, 1989.

(j) The consent requirements of this section do not apply to the creation of a special utility district under Chapter 65, Water Code. If a special utility district is to be converted to a district with taxing authority that provides utility services, this section applies to the conversion.

(k) This section, except Subsection (i), applies only to the proposed political subdivision's area located in the extraterritorial jurisdiction of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1058, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 11.254, eff. Sept. 1, 1995.

Sec. 42.043. REQUIREMENTS APPLYING TO PETITION. (a) A petition under Section 42.041 or 42.042 must:

(1) be written;

(2) request that the area be annexed or that the services be made available, as appropriate;

(3) be signed in ink or indelible pencil by the appropriate voters and landowners;

(4) be signed, in the case of a person signing as a voter, as the person's name appears on the most recent official list of registered voters;

(5) contain, in the case of a person signing as a voter, a note made by the person stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;

(6) contain, in the case of a person signing as a landowner, a note made by the person opposite the person's name stating the approximate total acreage that the person owns in the area to be annexed or serviced;

(7) describe the area to be annexed or serviced and have a plat of the area attached; and

(8) be presented to the secretary or clerk of the municipality.

(b) The signatures to the petition need not be appended to one paper.

(c) Before the petition is circulated among the voters and landowners, notice of the petition must be given by posting a copy of the petition for 10 days in three public places in the area to be annexed or serviced and by publishing the notice once, in a newspaper of general circulation serving the area, before the 15th day before the date the petition is first circulated. Proof of posting and publication must be made by attaching to the petition presented to the secretary or clerk:

(1) the affidavit of any voter who signed the petition, stating the places and dates of the posting;

(2) the affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication; and

(3) the affidavit of at least three voters who signed the petition, if there are that many, stating the total number of voters residing in the area and the approximate total acreage in the area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.044. CREATION OF INDUSTRIAL DISTRICT IN EXTRATERRITORIAL JURISDICTION. (a) In this section, "industrial district" has

the meaning customarily given to the term but also includes any area in which tourist-related businesses and facilities are located.

(b) The governing body of a municipality may designate any part of its extraterritorial jurisdiction as an industrial district and may treat the designated area in a manner considered by the governing body to be in the best interests of the municipality.

(c) The governing body may make written contracts with owners of land in the industrial district:

(1) to guarantee the continuation of the extraterritorial status of the district and its immunity from annexation by the municipality for a period not to exceed 15 years; and

(2) with other lawful terms and considerations that the parties agree to be reasonable, appropriate, and not unduly restrictive of business activities.

(d) The parties to a contract may renew or extend it for successive periods not to exceed 15 years each. In the event any owner of land in an industrial district is offered an opportunity to renew or extend a contract, then all owners of land in that industrial district must be offered an opportunity to renew or extend a contract subject to the provisions of Subsection (c).

(e) A municipality may provide for adequate fire-fighting services in the industrial district by:

(1) directly furnishing fire-fighting services that are to be paid for by the property owners of the district;

(2) contracting for fire-fighting services, whether or not all or a part of the services are to be paid for by the property owners of the district; or

(3) contracting with the property owners of the district to have them provide for their own fire-fighting services.

(f) A property owner who provides for his own fire-fighting services under this section may not be required to pay any part of the cost of the fire-fighting services provided by the municipality to other property owners in the district.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 975, Sec. 1, eff. Aug. 30, 1993.

Sec. 42.045. CREATION OF POLITICAL SUBDIVISION IN INDUSTRIAL DISTRICT. (a) A political subdivision, one purpose of which is to provide services of a governmental or proprietary nature, may not be created in an industrial district designated under Section 42.044 by a municipality unless the municipality gives its written consent by ordinance or resolution. The municipality shall give or deny consent within 60 days after the date the municipality receives a written request for consent. Failure to give or deny consent in the allotted period constitutes the municipality's consent to the initiation of the creation proceedings.

(b) If the consent is obtained, the creation proceedings must be initiated within six months after the date of the consent and must be finally completed within 18 months after the date of the consent. Failure to comply with either time requirement terminates the consent for the proceedings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.046. DESIGNATION OF A PLANNED UNIT DEVELOPMENT DISTRICT IN EXTRATERRITORIAL JURISDICTION. (a) The governing body of a municipality that has disannexed territory previously annexed for limited purposes may

designate an area within its extraterritorial jurisdiction as a planned unit development district by written agreement with the owner of the land under Subsection (b). The agreement shall be recorded in the deed records of the county or counties in which the land is located. A planned unit development district designated under this section shall contain no less than 250 acres. If there are more than four owners of land to be designated as a single planned unit development, each owner shall appoint a single person to negotiate with the municipality and authorize that person to bind each owner for purposes of this section.

(b) An agreement governing the creation, development, and existence of a planned unit development district established under this section shall be between the governing body of the municipality and the owner of the land subject to the agreement. The agreement shall not be effective until signed by both parties and by any other person with an interest in the land, as that interest is evidenced by an instrument recorded in the deed records of the county or counties in which the land is located. The parties may agree:

(1) to guarantee continuation of the extraterritorial status of the planned unit development district and its immunity from annexation by the municipality for a period not to exceed 15 years after the effective date of the agreement;

(2) to authorize certain land uses and development within the planned unit development;

(3) to authorize enforcement by the municipality of certain municipal land use and development regulations within the planned unit development district, in the same manner such regulations are enforced within the municipality's boundaries, as may be agreed by the landowner and the municipality;

(4) to vary any watershed protection regulations;

(5) to authorize or restrict the creation of political subdivisions within the planned unit development district; and

(6) to such other terms and considerations the parties consider appropriate.

(c) The agreement between the governing body of the municipality and the owner of the land within the planned unit development district shall be binding upon all subsequent governing bodies of the municipality and subsequent owners of the land within the planned unit development district for the term of the agreement.

(d) An agreement or a decision made under this section and an action taken under the agreement by the parties to the agreement are not subject to an approval or an appeal brought under Section 26.177, Water Code.

Added by Acts 1989, 71st Leg., ch. 822, Sec. 5, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 891, Sec. 1, eff. June 8, 1991.

Sec. 42.047. CREATION OF A POLITICAL SUBDIVISION IN AN AREA PROPOSED FOR A PLANNED UNIT DEVELOPMENT DISTRICT. If the governing body of a municipality that has disannexed territory previously annexed for limited purposes refuses to designate a planned unit development district under Section 42.046 no later than 180 days after the date a request for the designation is filed with the municipality by the owner of the land to be included in the planned unit development district, the municipality shall be considered to have given the consent required by Section 42.041 to the incorporation of a proposed municipality including within its

boundaries all or some of such land. If consent to incorporation is granted by this subsection, the consenting municipality waives all rights to challenge the proposed incorporation in any court.

Added by Acts 1989, 71st Leg., ch. 822, Sec. 5, eff. Sept. 1, 1989.

Sec. 42.049. AUTHORITY OF WELLS BRANCH MUNICIPAL UTILITY DISTRICT. (a) Wells Branch Municipal Utility district is authorized to contract with a municipality:

(1) to provide for payments to be made to the municipality for purposes that the governing body of the district determines will further regional cooperation between the district and the municipality; and

(2) to provide other lawful terms and considerations that the district and the municipality agree are reasonable and appropriate.

(b) A contract entered into under this section may be for a term that is mutually agreeable to the parties. The parties to such a contract may renew or extend the contract.

(c) A municipality may contract with the district to accomplish the purposes set forth in Subsection (a) of this section. In a contract entered into under this section, a municipality may agree that the district will remain in existence and be exempt from annexation by the municipality for the term of the contract.

(d) A contract entered into under this section will be binding on all subsequent governing bodies of the district and of the municipality for the term of the contract.

(e) The district may make annual appropriations from its operations and maintenance tax or other revenues lawfully available to the district to make payments to a municipality under a contract entered into under this section.

Added by Acts 1999, 76th Leg., ch. 926, Sec. 4, eff. June 18, 1999.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 42.901. APPORTIONMENT OF EXTRATERRITORIAL JURISDICTIONS THAT OVERLAPPED ON AUGUST 23, 1963. (a) If, on August 23, 1963, the extraterritorial jurisdiction of a municipality overlapped the extraterritorial jurisdiction of one or more other municipalities, the governing bodies of the affected municipalities may apportion the overlapped area by a written agreement approved by an ordinance or a resolution adopted by the governing bodies.

(b) A municipality having a claim of extraterritorial jurisdiction to the overlapping area may bring an action as plaintiff in the district court of the judicial district in which the largest municipality having a claim to the area is located. The plaintiff municipality must name as a defendant each municipality having a claim of extraterritorial jurisdiction to the area and must request the court to apportion the area among the affected municipalities. In apportioning the area, the court shall consider population densities, patterns of growth, transportation, topography, and land use in the municipalities and the overlapping area. The area must be apportioned among the municipalities:

(1) so that each municipality's part is contiguous to the extraterritorial jurisdiction of the municipality or, if the extraterritorial jurisdiction of the municipality is totally overlapped, is contiguous to the boundaries of the municipality;

(2) so that each municipality's part is in a substantially compact shape; and

(3) in the same ratio, to one decimal, that the respective populations of the municipalities bear to each other, but with each municipality receiving at least one-tenth of the area.

(c) An apportionment under this section must consider existing property lines. A tract of land or adjoining tracts of land that were under one ownership on August 23, 1963, and that do not exceed 160 acres may not be apportioned so as to be in the extraterritorial jurisdiction of more than one municipality unless the landowner gives written consent to that apportionment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.902. RESTRICTION AGAINST IMPOSING TAX IN EXTRATERRITORIAL JURISDICTION. The inclusion of an area in the extraterritorial jurisdiction of a municipality does not by itself authorize the municipality to impose a tax in the area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.903. EXTRATERRITORIAL JURISDICTION OF CERTAIN TYPE B OR C GENERAL-LAW MUNICIPALITIES. (a) This section applies only to a Type B or C general-law municipality:

(1) that has more than 200 inhabitants;

(2) that is wholly surrounded, at the time of incorporation, by the extraterritorial jurisdiction of another municipality; and

(3) part of which was located, at any time before incorporation, in an area annexed for limited purposes by another municipality.

(b) The governing body of the municipality by resolution or ordinance may adopt an extraterritorial jurisdiction for all or part of the unincorporated area contiguous to the corporate boundaries of the municipality and located within one mile of those boundaries. The authority granted by this section is subject to the limitation provided by Section 26.178, Water Code.

(c) Within 90 days after the date the municipality adopts the resolution or ordinance, an owner of real property in the extraterritorial jurisdiction may petition the municipality to release the owner's property from the extraterritorial jurisdiction. On the presentation of the petition, the property:

(1) is automatically released from the extraterritorial jurisdiction of the municipality and becomes part of the extraterritorial jurisdiction or limited purpose area of the municipality whose jurisdiction surrounded, on May 31, 1989, the municipality from whose jurisdiction the property is released; and

(2) becomes subject to any existing zoning or other land use approval provisions that applied to the property before the property was included in the municipality's extraterritorial jurisdiction under Subsection (b).

(d) The municipality may exercise in its extraterritorial jurisdiction the powers granted under state law to other municipalities in their extraterritorial jurisdiction, including the power to ensure its water supply and to carry out other public purposes.

(e) To the extent of any conflict, this section controls over other laws relating to the creation of extraterritorial jurisdiction.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.01(a), eff. Aug. 26, 1991.

Sec. 42.904. EXTRATERRITORIAL JURISDICTION AND VOTING RIGHTS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a

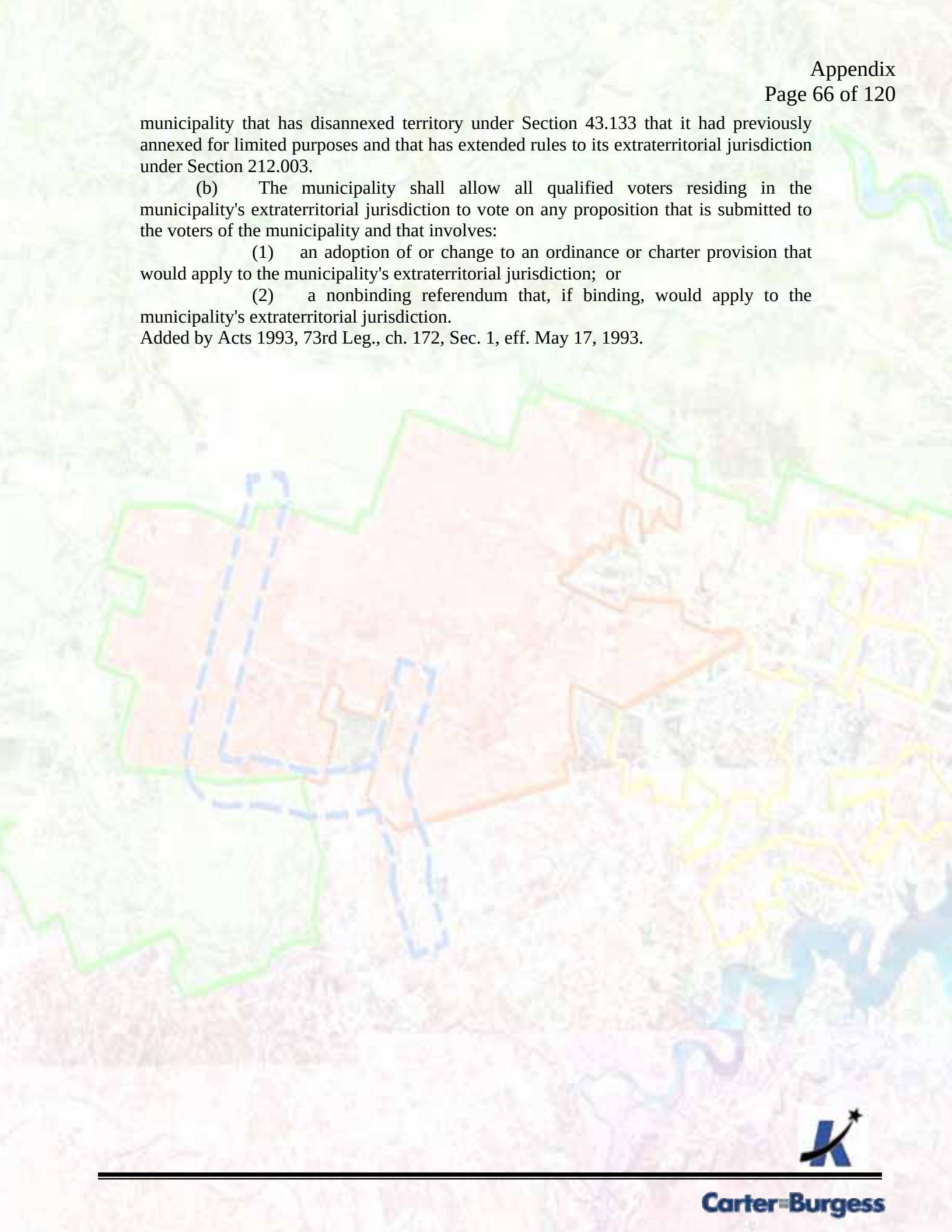
municipality that has disannexed territory under Section 43.133 that it had previously annexed for limited purposes and that has extended rules to its extraterritorial jurisdiction under Section 212.003.

(b) The municipality shall allow all qualified voters residing in the municipality's extraterritorial jurisdiction to vote on any proposition that is submitted to the voters of the municipality and that involves:

(1) an adoption of or change to an ordinance or charter provision that would apply to the municipality's extraterritorial jurisdiction; or

(2) a nonbinding referendum that, if binding, would apply to the municipality's extraterritorial jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 172, Sec. 1, eff. May 17, 1993.



TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 212. MUNICIPAL REGULATION OF SUBDIVISIONS AND PROPERTY DEVELOPMENT

SUBCHAPTER A. REGULATION OF SUBDIVISIONS

Sec. 212.001. DEFINITIONS. In this subchapter:

(1) "Extraterritorial jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42, except that for a municipality that has a population of 5,000 or more and is located in a county bordering the Rio Grande River, "extraterritorial jurisdiction" means the area outside the municipal limits but within five miles of those limits.

(2) "Plat" includes a replat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989.

Sec. 212.002. RULES. After a public hearing on the matter, the governing body of a municipality may adopt rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.0025. CHAPTER-WIDE PROVISION RELATING TO REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION. The authority of a municipality under this chapter relating to the

regulation of plats or subdivisions in the municipality's extraterritorial jurisdiction is subject to any applicable limitation prescribed by an agreement under Section 242.001.

Added by Acts 2003, 78th Leg., ch. 523, Sec. 6, eff. June 20, 2003.

Sec. 212.003. EXTENSION OF RULES TO EXTRATERRITORIAL JURISDICTION. (a) The governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of municipal ordinances adopted under Section 212.002 and other municipal ordinances relating to access to public roads or the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health. However, unless otherwise authorized by state law, in its extraterritorial jurisdiction a municipality shall not regulate:

(1) the use of any building or property for business, industrial, residential, or other purposes;

(2) the bulk, height, or number of buildings constructed on a particular tract of land;

(3) the size of a building that can be constructed on a particular tract of land, including without limitation any restriction on the ratio of building floor space to the land square footage;

(4) the number of residential units that can be built per acre of land; or

(5) the size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract of land if:

(A) the facility meets the minimum standards established for water or wastewater facilities by state and federal regulatory entities; and

(B) the developed tract of land is:

(i) located in a county with a population of 2.8 million or more; and

(ii) served by:

(a) on-site septic systems constructed before September 1, 2001, that fail to provide adequate services; or

(b) on-site water wells constructed before September 1, 2001, that fail to provide an adequate supply of safe drinking water.

(b) A fine or criminal penalty prescribed by the ordinance does not apply to a violation in the extraterritorial jurisdiction.

(c) The municipality is entitled to appropriate injunctive relief in district court to enjoin a violation of municipal ordinances or codes applicable in the extraterritorial jurisdiction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 822, Sec. 6, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 68, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 731, Sec. 3, eff. Sept. 1, 2003.

Sec. 212.004. PLAT REQUIRED. (a) The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or 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 must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.

(b) To be recorded, the plat must:

(1) describe the subdivision by metes and bounds;

(2) locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and

(3) state the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.

(c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

(d) The plat must be filed and recorded with the county clerk of the county in which the tract is located.

(e) The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 3.02, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 1046, Sec. 1, eff. Aug. 30, 1993.

Sec. 212.0045. EXCEPTION TO PLAT REQUIREMENT: MUNICIPAL DETERMINATION. (a) To determine whether specific divisions of land are required to be platted, a municipality may define and classify the divisions. A municipality need not require platting for every division of land otherwise within the scope of this subchapter.

(b) In lieu of a plat contemplated by this subchapter, a municipality may require the filing of a development plat under Subchapter B if that subchapter applies to the municipality.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989.

Sec. 212.0046. EXCEPTION TO PLAT REQUIREMENT: CERTAIN PROPERTY ABUTTING AIRCRAFT RUNWAY. An owner of a tract of land is not required to prepare a plat if the land:

(1) is located wholly within a municipality with a population of 5,000 or less;

(2) is divided into parts larger than 2-1/2 acres; and

(3) abuts any part of an aircraft runway.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989.

Sec. 212.005. APPROVAL BY MUNICIPALITY REQUIRED. The municipal authority responsible for approving plats must approve a plat or replat that is required to be prepared under this subchapter and that satisfies all applicable regulations.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 1046, Sec. 2, eff. Aug. 30, 1993.

Sec. 212.006. AUTHORITY RESPONSIBLE FOR APPROVAL GENERALLY. (a) The municipal authority responsible for approving plats under this subchapter is the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality. The governing body by ordinance may require the approval of the governing body in addition to that of the municipal planning commission.

(b) In a municipality with a population of more than 1.5 million, at least two members of the municipal planning commission, but not more than 25 percent of the membership of the commission, must be residents of the area outside the limits of the municipality and in which the municipality exercises its authority to approve subdivision plats.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989.

Sec. 212.0065. DELEGATION OF APPROVAL RESPONSIBILITY. (a) The governing body of a municipality may delegate to one or more officers or employees of the municipality or of a utility owned or operated by the municipality the ability to approve:

(1) amending plats described by Section 212.016;

(2) minor plats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities; or

(3) a replat under Section 212.0145 that does not require the creation of any new street or the extension of municipal facilities.

(b) The designated person or persons may, for any reason, elect to present the plat for approval to the municipal authority responsible for approving plats.

(c) The person or persons shall not disapprove the plat and shall be required to refer any plat which the person or persons refuse to approve to the municipal authority responsible for approving plats within the time period specified in Section 212.009.

Added by Acts 1989, 71st Leg., ch. 345, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 92, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 566, Sec. 1, eff. June 2, 1997; Acts 1999, 76th Leg., ch. 1130, Sec. 2, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 402, Sec. 13, eff. Sept. 1, 2001.

Sec. 212.007. AUTHORITY RESPONSIBLE FOR APPROVAL: TRACT IN EXTRATERRITORIAL JURISDICTION OF MORE THAN ONE MUNICIPALITY. (a) For a tract located in the extraterritorial jurisdiction of more than one municipality, the authority responsible for approving a plat under this subchapter is the authority in the municipality with the largest population that under Section 212.006 has approval responsibility. The governing body of that municipality may enter into an agreement with any other affected municipality or with any other municipality having area that, if unincorporated, would be in the extraterritorial jurisdiction of the governing body's municipality delegating to the other municipality the responsibility for plat approval within specified parts of the affected area.

(b) Either party to an agreement under Subsection (a) may revoke the agreement after 20 years have elapsed after the date of the agreement unless the parties agree to a shorter period.

(c) A copy of the agreement shall be filed with the county clerk.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.008. APPLICATION FOR APPROVAL. A person desiring approval of a plat must apply to and file a copy of the plat with the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.009. APPROVAL PROCEDURE. (a) The municipal authority responsible for approving plats shall act on a plat within 30 days after the date the plat is filed. A plat is considered approved by the municipal authority unless it is disapproved within that period.

(b) If an ordinance requires that a plat be approved by the governing body of the municipality in addition to the planning commission, the governing body shall act on the plat within 30 days after the date the plat is approved by the planning commission or is considered approved by the inaction of the commission. A plat is considered approved by the governing body unless it is disapproved within that period.

(c) If a plat is approved, the municipal authority giving the approval shall endorse the plat with a certificate indicating the approval. The certificate must be signed by:

(1) the authority's presiding officer and attested by the authority's secretary; or

(2) a majority of the members of the authority.

(d) If the municipal authority responsible for approving plats fails to act on a plat within the prescribed period, the authority on request shall issue a certificate stating the date the plat was filed and that the authority failed to act on the plat within the period. The certificate is effective in place of the endorsement required by Subsection (c).

(e) The municipal authority responsible for approving plats shall maintain a record of each application made to the authority and the authority's action taken on it. On request of an owner of an affected tract, the authority shall certify the reasons for the action taken on an application.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.010. STANDARDS FOR APPROVAL. (a) The municipal authority responsible for approving plats shall approve a plat if:

(1) it conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities;

(2) it conforms to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities;

(3) a bond required under Section 212.0106, if applicable, is filed with the municipality; and

(4) it conforms to any rules adopted under Section 212.002.

(b) However, the municipal authority responsible for approving plats may not approve a plat unless the plat and other documents have been prepared as required by Section 212.0105, if applicable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989.

Sec. 212.0101. ADDITIONAL REQUIREMENTS: USE OF GROUNDWATER. (a) If a person submits a plat for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, the municipal authority responsible for approving plats by ordinance may require the plat application to have attached to it a statement that:

(1) is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state; and

(2) certifies that adequate groundwater is available for the subdivision.

(b) The Texas Natural Resource Conservation Commission by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.

Added by Acts 1999, 76th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 99, Sec. 2(a), eff. Sept. 1, 2001.

Sec. 212.0105. WATER AND SEWER REQUIREMENTS IN CERTAIN COUNTIES. (a) This section applies only to a person who:

(1) is the owner of a tract of land in either:

(A) a county that is contiguous to an international border; or

(B) a county in which a political subdivision has received financial assistance through Subchapter K, Chapter 17, Water Code;

(2) divides the tract in a manner that creates any lots that are intended for residential purposes and are five acres or less; and

(3) is required under this subchapter to have a plat prepared for the subdivision.

(b) The owner of the tract:

(1) must:

(A) include on the plat or have attached to the plat a document containing a description of the water and sewer service facilities that will be constructed or installed to service the subdivision and a statement of the date by which the facilities will be fully operable; and

(B) have attached to the plat a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities described by the plat or on the document attached to the plat are in compliance with the model rules adopted under Section 16.343, Water Code; or

(2) must:

(A) include on the plat a statement that water and sewer service facilities are unnecessary for the subdivision; and

(B) have attached to the plat a document prepared by an engineer registered to practice in this state certifying that water and sewer service facilities are unnecessary for the subdivision under the model rules adopted under Section 16.343, Water Code.

(c) The governing body of the municipality may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the governing body finds the extension is reasonable and not contrary to the public interest. 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. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 422, Sec. 7, eff. Sept. 1, 1991.

Sec. 212.0106. BOND REQUIREMENTS AND OTHER FINANCIAL GUARANTEES IN CERTAIN COUNTIES. (a) This section applies only to a person described by Section 212.0105(a).

(b) If the governing body of a municipality in a county described by Section 212.0105(a)(1)(A) or (B) requires the owner of the tract to execute a bond, the owner must do so before subdividing the tract unless an alternative financial guarantee is provided under Subsection (c). The bond must:

(1) be payable to the presiding officer of the governing body or to the presiding officer's successors in office;

(2) be in an amount determined by the governing body to be adequate to ensure the proper construction or installation of the water and sewer service facilities to service the subdivision but not to exceed the estimated cost of the construction or installation of the facilities;

(3) be executed with sureties as may be approved by the governing body;

(4) be executed by a company authorized to do business as a surety in this state if the governing body requires a surety bond executed by a corporate surety; and

(5) be conditioned that the water and sewer service facilities will be constructed or installed:

(A) in compliance with the model rules adopted under Section 16.343, Water Code; and

(B) within the time stated on the plat or on the document attached to the plat for the subdivision or within any extension of that time.

(c) In lieu of the bond an owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee.

(d) If a letter of credit is used, it must:

(1) list as the sole beneficiary the presiding officer of the governing body; and

(2) be conditioned that the water and sewer service facilities will be constructed or installed:

(A) in compliance with the model rules adopted under Section 16.343, Water Code; and

(B) within the time stated on the plat or on the document attached to the plat for the subdivision or within any extension of that time.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989.

Sec. 212.011. EFFECT OF APPROVAL ON DEDICATION. (a) The approval of a plat is not considered an acceptance of any proposed dedication and does not impose

on the municipality any duty regarding the maintenance or improvement of any dedicated parts until the appropriate municipal authorities make an actual appropriation of the dedicated parts by entry, use, or improvement.

(b) The disapproval of a plat is considered a refusal by the municipality of the offered dedication indicated on the plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.0115. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS. (a) For the purposes of this section, land is considered to be within the jurisdiction of a municipality if the land is located within the limits or in the extraterritorial jurisdiction of the municipality.

(b) On the approval of a plat by the municipal authority responsible for approving plats, the authority shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the authority.

(c) On the written request of an owner of land, an entity that provides utility service, or the governing body of the municipality, the municipal authority responsible for approving plats shall make the following determinations regarding the owner's land or the land in which the entity or governing body is interested that is located within the jurisdiction of the municipality:

(1) whether a plat is required under this subchapter for the land; and

(2) if a plat is required, whether it has been prepared and whether it has been reviewed and approved by the authority.

(d) The request made under Subsection (c) must identify the land that is the subject of the request.

(e) If the municipal authority responsible for approving plats determines under Subsection (c) that a plat is not required, the authority shall issue to the requesting party a written certification of that determination. If the authority determines that a plat is required and that the plat has been prepared and has been reviewed and approved by the authority, the authority shall issue to the requesting party a written certification of that determination.

(f) The municipal authority responsible for approving plats shall make its determination within 20 days after the date it receives the request under Subsection (c) and shall issue the certificate, if appropriate, within 10 days after the date the determination is made.

(g) If both the municipal planning commission and the governing body of the municipality have authority to approve plats, only one of those entities need make the determinations and issue the certificates required by this section.

(h) The municipal authority responsible for approving plats may adopt rules it considers necessary to administer its functions under this section.

(i) The governing body of a municipality may delegate, in writing, the ability to perform any of the responsibilities under this section to one or more persons. A binding decision of the person or persons under this subsection is appealable to the municipal authority responsible for approving plats.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.03, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 567, Sec. 1, eff. June 2, 1997.

Sec. 212.012. CONNECTION OF UTILITIES. (a) Except as provided by Subsection (c), an entity described by Subsection (b) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115.

(b) The prohibition established by Subsection (a) applies only to:

(1) a municipality and officials of a municipality that provides water, sewer, electricity, gas, or other utility service;

(2) a municipally owned or municipally operated utility that provides any of those services;

(3) a public utility that provides any of those services;

(4) a water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides any of those services;

(5) a county that provides any of those services; and

(6) a special district or authority created by or under state law that provides any of those services.

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; or

(4) the municipal authority responsible for approving plats issues a certificate stating that:

(A) the land:

(i) before September 1, 1995, was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract;

(ii) is located in a subdivision in which the entity has previously provided service;

(iii) is located outside the limits of the municipality;

(iv) is located in a county to which Subchapter B, Chapter 232, applies; and

(v) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 1997; or

(B) the land was not subdivided after September 1, 1995, and:

(i) water service is available within 750 feet of the subdivided land; or

(ii) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) An entity described by Subsection (b) may provide utility service to land described by Subsection (c)(4)(A) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the entity a certificate described by Subsection (c)(4)(A).

(e) A person requesting service may obtain a certificate under Subsection (c)(4)(A) only if the person provides to the municipal authority responsible for approving plats either:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 1995, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997; or

(2) a notarized affidavit by the person requesting service that states that the property was sold or conveyed to that person before September 1, 1995, and that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997.

(f) A person requesting service may obtain a certificate under Subsection (c)(4)(B) only if the person provides to the municipal authority responsible for approving plats an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995.

(g) On request, the municipal authority responsible for approving plats shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the municipal authority relied in determining the legality of providing service.

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) In this section:

(1) "Foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(2) "Subdivider" has the meaning assigned by Section 232.021.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1062, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 18.34, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 404, Sec. 2, eff. Sept. 1, 1999.

Sec. 212.013. VACATING PLAT. (a) The proprietors of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.

(b) If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(c) The county clerk shall write legibly on the vacated plat the word "Vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

(d) On the execution and recording of the vacating instrument, the vacated plat has no effect.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.014. REPLATTING WITHOUT VACATING PRECEDING PLAT. A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

(1) is signed and acknowledged by only the owners of the property being replatted;

(2) is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the municipal authority responsible for approving plats; and

(3) does not attempt to amend or remove any covenants or restrictions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.0145. REPLATTING WITHOUT VACATING PRECEDING PLAT: CERTAIN SUBDIVISIONS. (a) A replat of a part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

(1) is signed and acknowledged by only the owners of the property being replatted; and

(2) involves only property:

(A) of less than one acre that fronts an existing street; and

(B) that is owned and used by a nonprofit corporation established to assist children in at-risk situations through volunteer and individualized attention.

(b) An existing covenant or restriction for property that is replatted under this section does not have to be amended or removed if:

(1) the covenant or restriction was recorded more than 50 years before the date of the replat; and

(2) the replatted property has been continuously used by the nonprofit corporation for at least 10 years before the date of the replat.

(c) Sections 212.014 and 212.015 do not apply to a replat under this section.

Added by Acts 1999, 76th Leg., ch. 1130, Sec. 1, eff. June 18, 1999.

Sec. 212.015. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS. (a) In addition to compliance with Section 212.014, a replat without vacation of the preceding plat must conform to the requirements of this section if:

(1) during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

(2) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(b) Notice of the hearing required under Section 212.014 shall be given before the 15th day before the date of the hearing by:

(1) publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and

(2) by written notice, with a copy of Subsection (c) attached, forwarded by the municipal authority responsible for approving plats to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.

(c) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the municipal planning commission or governing body, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the municipal planning commission or governing body, or both, prior to the close of the public hearing.

(d) In computing the percentage of land area under Subsection (c), the area of streets and alleys shall be included.

(e) Compliance with Subsections (c) and (d) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 345, Sec. 2 to 5, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 1046, Sec. 3, eff. Aug. 30, 1993.

Sec. 212.016. AMENDING PLAT. (a) The municipal authority responsible for approving plats may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

(1) to correct an error in a course or distance shown on the preceding plat;

(2) to add a course or distance that was omitted on the preceding plat;

(3) to correct an error in a real property description shown on the preceding plat;

(4) to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

(5) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(6) to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) to correct an error in courses and distances of lot lines between two adjacent lots if:

(A) both lot owners join in the application for amending the plat;

(B) neither lot is abolished;

(C) the amendment does not attempt to remove recorded covenants or restrictions; and

(D) the amendment does not have a material adverse effect on the property rights of the other owners in the plat;

(8) to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

(9) to relocate one or more lot lines between one or more adjacent lots if:

(A) the owners of all those lots join in the application for amending the plat;

(B) the amendment does not attempt to remove recorded covenants or restrictions; and

(C) the amendment does not increase the number of lots;

(10) to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:

(A) the changes do not affect applicable zoning and other regulations of the municipality;

(B) the changes do not attempt to amend or remove any covenants or restrictions; and

(C) the area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or

(11) to replat one or more lots fronting on an existing street if:

(A) the owners of all those lots join in the application for amending the plat;

(B) the amendment does not attempt to remove recorded covenants or restrictions;

(C) the amendment does not increase the number of lots; and

(D) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 92, Sec. 2, eff. Aug. 28, 1995.

Sec. 212.017. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has a substantial interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract with a fair market value of $2,500 or more;

(2) acts as a developer of the tract;

(3) owns 10 percent or more of the voting stock or shares of or owns either 10 percent or more or $5,000 or more of the fair market value of a business entity that:

(A) has an equitable or legal ownership interest in the tract with a fair market value of $2,500 or more; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year funds from a business entity described by Subdivision (3) that exceed 10 percent of the person's gross income for the previous year.

(c) A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to another person who, under Subsection (b), has a substantial interest in the tract.

(d) If a member of the municipal authority responsible for approving plats has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the municipal secretary or clerk.

(e) A member of the municipal authority responsible for approving plats commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the municipal authority responsible for approving plats unless the measure

would not have passed the municipal authority without the vote of the member who violated this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 561, Sec. 38, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

Sec. 212.0175. ENFORCEMENT IN CERTAIN COUNTIES; PENALTY. (a) The attorney general may take any action necessary to enforce a requirement imposed by or under Section 212.0105 or 212.0106 or to ensure that water and sewer service facilities are constructed or installed to service a subdivision in compliance with the model rules adopted under Section 16.343, Water Code.

(b) A person who violates Section 212.0105 or 212.0106 or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on the plat or on the document attached to the plat, as required by Section 212.0105, is subject to a civil penalty of not less than $500 nor more than $1,000 plus court costs and attorney's fees.

(c) An owner of a tract of land commits an offense if the owner knowingly or intentionally violates a requirement imposed by or under Section 212.0105 or 212.0106 or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on a plat or on a document attached to a plat, as required by Section 212.0105. An offense under this subsection is a Class B misdemeanor.

(d) A reference in this section to an "owner of a tract of land" does not include the owner of an individual lot in a subdivided tract of land.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989.

Sec. 212.018. ENFORCEMENT IN GENERAL. (a) At the request of the governing body of the municipality, the municipal attorney or any other attorney representing the municipality may file an action in a court of competent jurisdiction to:

(1) enjoin the violation or threatened violation by the owner of a tract of land of a requirement regarding the tract and established by, or adopted by the governing body under, this subchapter; or

(2) recover damages from the owner of a tract of land in an amount adequate for the municipality to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the tract and established by, or adopted by the governing body under, this subchapter.

(b) A reference in this section to an "owner of a tract of land" does not include the owner of an individual lot in a subdivided tract of land.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989.

SUBCHAPTER B. REGULATION OF PROPERTY DEVELOPMENT

Sec. 212.041. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality whose governing body chooses by ordinance to be covered by this subchapter or chose by ordinance to be covered by the law codified by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 125, Sec. 1, eff. May 11, 1993; Acts 1993, 73rd Leg., ch. 1046, Sec. 4, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 10.04, eff. Sept. 1, 1995.

Sec. 212.042. APPLICATION OF SUBCHAPTER A. The provisions of Subchapter A that do not conflict with this subchapter apply to development plats.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.043. DEFINITIONS. In this subchapter:

(1) "Development" means the new construction or the enlargement of any exterior dimension of any building, structure, or improvement.

(2) "Extraterritorial jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.044. PLANS, RULES, AND ORDINANCES. After a public hearing on the matter, the municipality may adopt general plans, rules, or ordinances governing development plats of land within the limits and in the extraterritorial jurisdiction of the municipality to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.045. DEVELOPMENT PLAT REQUIRED. (a) Any person who proposes the development of a tract of land located within the limits or in the extraterritorial jurisdiction of the municipality must have a development plat of the tract prepared in accordance with this subchapter and the applicable plans, rules, or ordinances of the municipality.

(b) A development plat must be prepared by a registered professional land surveyor as a boundary survey showing:

(1) each existing or proposed building, structure, or improvement or proposed modification of the external configuration of the building, structure, or improvement involving a change of the building, structure, or improvement;

(2) each easement and right-of-way within or abutting the boundary of the surveyed property; and

(3) the dimensions of each street, sidewalk, alley, square, park, or other part of the property intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park, or other part.

(c) New development may not begin on the property until the development plat is filed with and approved by the municipality in accordance with Section 212.047.

(d) If a person is required under Subchapter A or an ordinance of the municipality to file a subdivision plat, a development plat is not required in addition to the subdivision plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1091, Sec. 28, eff. Sept. 1, 1989.

Sec. 212.046. RESTRICTION ON ISSUANCE OF BUILDING AND OTHER PERMITS BY MUNICIPALITY, COUNTY, OR OFFICIAL OF OTHER GOVERNMENTAL ENTITY. The municipality, a county, or an official of another governmental entity may not issue a building permit or any other type of permit for development on lots or tracts subject to this subchapter until a development plat is filed with and approved by the municipality in accordance with Section 212.047.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.047. APPROVAL OF DEVELOPMENT PLAT. The municipality shall endorse approval on a development plat filed with it if the plat conforms to:

(1) the general plans, rules, and ordinances of the municipality concerning its current and future streets, sidewalks, alleys, parks, playgrounds, and public utility facilities;

(2) the general plans, rules, and ordinances for the extension of the municipality or the extension, improvement, or widening of its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and

(3) any general plans, rules, or ordinances adopted under Section 212.044.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.048. EFFECT OF APPROVAL ON DEDICATION. The approval of a development plat is not considered an acceptance of any proposed dedication for public use or use by persons other than the owner of the property covered by the plat and does not impose on the municipality any duty regarding the maintenance or improvement of any purportedly dedicated parts until the municipality's governing body makes an actual appropriation of the dedicated parts by formal acceptance, entry, use, or improvement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.049. BUILDING PERMITS IN EXTRATERRITORIAL JURISDICTION. This subchapter does not authorize the municipality to require municipal building permits or otherwise enforce the municipality's building code in its extraterritorial jurisdiction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.050. ENFORCEMENT; PENALTY. (a) If it appears that a violation or threat of a violation of this subchapter or a plan, rule, or ordinance adopted under this subchapter or consistent with this subchapter exists, the municipality is entitled to appropriate injunctive relief against the person who committed, is committing, or is threatening to commit the violation.

(b) A suit for injunctive relief may be brought in the county in which the defendant resides, the county in which the violation or threat of violation occurs, or any county in which the municipality is wholly or partly located.

(c) In a suit to enjoin a violation or threat of a violation of this subchapter or a plan, rule, ordinance, or other order adopted under this subchapter, the court may grant the municipality any prohibitory or mandatory injunction warranted by the facts including a temporary restraining order, temporary injunction, or permanent injunction.

(d) A person commits an offense if the person violates this subchapter or a plan, rule, or ordinance adopted under this subchapter or consistent with this subchapter within the limits of the municipality. An offense under this subsection is a Class C misdemeanor. Each day the violation continues constitutes a separate offense.

(e) A suit under this section shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.

(f) It is no defense to a criminal or civil suit under this section that an agency of government other than the municipality issued a license or permit authorizing the construction, repair, or alteration of any building, structure, or improvement. It also is no

defense that the defendant had no knowledge of this subchapter or of an applicable plan, rule, or ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. DEVELOPER PARTICIPATION IN CONTRACT FOR PUBLIC IMPROVEMENTS

Sec. 212.071. DEVELOPER PARTICIPATION CONTRACT. Without complying with the competitive sealed bidding procedure of Chapter 252, a municipality with 5,000 or more inhabitants may make a contract with a developer of a subdivision or land in the municipality to construct public improvements, not including a building, related to the development. If the contract does not meet the requirements of this subchapter, Chapter 252 applies to the contract if the contract would otherwise be governed by that chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 47(b), eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 1547, Sec. 1, eff. Sept. 1, 1999.

Sec. 212.072. DUTIES OF PARTIES UNDER CONTRACT. (a) Under the contract, the developer shall construct the improvements and the municipality shall participate in their cost.

(b) The contract must establish the limit of participation by the municipality at a level not to exceed 30 percent of the total contract price. In addition, the contract may also allow participation by the municipality at a level not to exceed 100 percent of the total cost for any oversizing of improvements required by the municipality, including but not limited to increased capacity of improvements to anticipate other future development in the area. The municipality is liable only for the agreed payment of its share, which

shall be determined in advance either as a lump sum or as a factor or percentage of the total actual cost as determined by municipal ordinance.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 47(b), eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 1526, Sec. 1, eff. Aug. 30, 1999.

Sec. 212.073. PERFORMANCE BOND. The developer must execute a performance bond for the construction of the improvements to ensure completion of the project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 47(b), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(17), eff. Sept. 1, 1995.

Sec. 212.074. ADDITIONAL SAFEGUARDS; INSPECTION OF RECORDS. (a) In the ordinance adopted by the municipality under Section 212.072(b), the municipality may include additional safeguards against undue loading of cost, collusion, or fraud.

(b) All of the developer's books and other records related to the project shall be available for inspection by the municipality.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 47(b), eff. Aug. 28, 1989.

SUBCHAPTER D. REGULATION OF PROPERTY DEVELOPMENT PROHIBITED IN CERTAIN CIRCUMSTANCES

Sec. 212.101. APPLICATION OF SUBCHAPTER TO CERTAIN HOME-RULE MUNICIPALITY. This subchapter applies only to a home-rule municipality that:

(1) has a charter provision allowing for limited-purpose annexation; and

(2) has annexed territory for a limited purpose.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1, 1997.

Sec. 212.102. DEFINITIONS. In this subchapter:

(1) "Affected area" means an area that is:

(A) in a municipality or a municipality's extraterritorial jurisdiction;

(B) in a county other than the county in which a majority of the territory of the municipality is located;

(C) within the boundaries of one or more school districts other than the school district in which a majority of the territory of the municipality is located; and

(D) within the area of or within 1,500 feet of the boundary of an assessment road district in which there are two state highways.

(2) "Assessment road district" means a road district that has issued refunding bonds and that has imposed assessments on each parcel of land under Subchapter C, Chapter 1471, Government Code.

(3) "State highway" means a highway that is part of the state highway system under Section 221.001, Transportation Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.289, eff. Sept. 1, 2001.

Sec. 212.103. TRAFFIC OR TRAFFIC OPERATIONS. (a) A municipality may not deny, limit, delay, or condition the use or development of land, any part of which is within an affected area, because of:

(1) traffic or traffic operations that would result from the proposed use or development of the land; or

(2) the effect that the proposed use or development of the land would have on traffic or traffic operations.

(b) In this section, an action to deny, limit, delay, or condition the use or development of land includes a decision or other action by the governing body of the municipality or by a commission, board, department, agency, office, or employee of the municipality related to zoning, subdivision, site planning, the construction or building permit process, or any other municipal process, approval, or permit.

(c) This subchapter does not prevent a municipality from exercising its authority to require the dedication of right-of-way.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1, 1997.

Sec. 212.104. PROVISION NOT ENFORCEABLE. A provision in a covenant or agreement relating to land in an affected area that would have the effect of denying, limiting, delaying, or conditioning the use or development of the land because of its effect on traffic or traffic operations may not be enforced by a municipality.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1, 1997.

Sec. 212.105. SUBCHAPTER CONTROLS. This subchapter controls over any other law relating to municipal regulation of land use or development based on traffic.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1, 1997.

SUBCHAPTER E. MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN CIRCUMSTANCES

Sec. 212.131. DEFINITIONS. In this subchapter:

(1) "Essential public facilities" means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

(2) "Residential property" means property zoned for or otherwise authorized for single-family or multi-family use.

(3) "Property development" means the new construction of residential buildings on vacant land.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.132. APPLICABILITY. This subchapter applies only to a moratorium imposed on property development affecting only residential property.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.133. PROCEDURE FOR ADOPTING MORATORIUM. A municipality may not adopt a moratorium on property development unless the municipality:

(1) complies with the notice and hearing procedures prescribed by Section 212.134; and

(2) makes written findings as provided by Section 212.135.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.134. NOTICE AND PUBLIC HEARING REQUIREMENTS. (a) Before a moratorium on property development may be imposed, a municipality must conduct public hearings as provided by this section.

(b) A public hearing must provide municipal residents and affected parties an opportunity to be heard. The municipality must publish notice of the time and place of a

hearing in a newspaper of general circulation in the municipality on the fourth day before the date of the hearing.

(c) Beginning on the fifth business day after the date a notice is published under Subsection (b), a temporary moratorium takes effect. During the period of the temporary moratorium, a municipality may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property.

(d) One public hearing must be held before the governing body of the municipality. Another public hearing must be held before the municipal zoning commission, if the municipality has a zoning commission.

(e) If a general-law municipality does not have a zoning commission, two public hearings separated by at least four days must be held before the governing body of the municipality.

(f) Within 12 days after the date of the first public hearing, the municipality shall make a final determination on the imposition of a moratorium. Before an ordinance adopting a moratorium may be imposed, the ordinance must be given at least two readings by the governing body of the municipality. The readings must be separated by at least four days. If the municipality fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection, an ordinance imposing a moratorium may not be adopted, and the temporary moratorium imposed under Subsection (c) expires.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.135. JUSTIFICATION FOR MORATORIUM; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on property development, the moratorium is justified by demonstrating a need to prevent a shortage of essential public

facilities. The municipality must issue written findings based on reasonably available information. The written findings must include a summary of:

(1) evidence demonstrating the extent of need beyond the estimated capacity of existing essential public facilities that is expected to result from new property development, including identifying:

(A) any essential public facilities currently operating near, at, or beyond capacity;

(B) the portion of that capacity committed to the development subject to the moratorium; and

(C) the impact fee revenue allocated to address the facility need; and

(2) evidence demonstrating that the moratorium is reasonably limited to:

(A) areas of the municipality where a shortage of essential public facilities would otherwise occur; and

(B) property that has not been approved for development because of the insufficiency of existing essential public facilities.

(b) A moratorium that is not based on a shortage of essential public facilities is justified only by demonstrating a significant need for other public facilities, including police and fire facilities. For purposes of this subsection, a significant need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities or would be detrimental to the health, safety, and welfare of the residents of the municipality. The municipality must issue written findings based on reasonably available information. The written findings must include a summary of:

(1) evidence demonstrating that applying existing development ordinances or regulations and other applicable laws is inadequate to prevent the new development from causing the overcapacity of municipal infrastructure or being detrimental to the public health, safety, and welfare in an affected geographical area;

(2) evidence demonstrating that alternative methods of achieving the objectives of the moratorium are unsatisfactory; and

(3) evidence demonstrating that the municipality has approved a working plan and time schedule for achieving the objectives of the moratorium.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.136. EXPIRATION OF MORATORIUM; EXTENSION. (a) A moratorium adopted under this subchapter expires on the 120th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

(1) holding a public hearing on the proposed extension of the moratorium; and

(2) adopting written findings that:

(A) identify the problem requiring the need for extending the moratorium;

(B) describe the reasonable progress made to alleviate the problem; and

(C) specify a definite duration for the renewal period of the moratorium.

(b) A municipality proposing an extension of a moratorium must publish notice in a newspaper of general circulation in the municipality not later than the 15th day before the date of the hearing required by Subsection (a).

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.137. WAIVER PROCEDURES REQUIRED. (a) A moratorium adopted under this subchapter must allow a permit applicant to apply for a waiver from the moratorium relating to the property subject to the permit by:

(1) claiming a right obtained under a development agreement;

(2) claiming a vested right under Chapter 245 or common law; or

(3) providing the public facilities that are the subject of the moratorium at the landowner's cost.

(b) The permit applicant must submit the reasons for the request to the governing body of the municipality in writing. The governing body of the municipality must vote on whether to grant the waiver request within 10 days after receiving the written request.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.138. EFFECT ON OTHER LAW. A moratorium adopted under this subchapter does not affect the rights acquired under Chapter 245 or common law.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER F. ENFORCEMENT OF LAND USE RESTRICTIONS CONTAINED IN PLATS AND OTHER INSTRUMENTS

Sec. 212.151. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality with a population of 1.5 million or more that passes an ordinance that requires uniform application and enforcement of this subchapter

with regard to all property and residents or to a municipality that does not have zoning ordinances and passes an ordinance that requires uniform application and enforcement of this subchapter with regard to all property and residents.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 893, Sec. 1, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Local Government Code Sec. 230.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Renumbered from V.T.C.A., Local Government Code Sec. 212.131 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.

Sec. 212.152. DEFINITION. In this subchapter, "restriction" means a land-use regulation that:

(1) affects the character of the use to which real property, including residential and rental property, may be put;

(2) fixes the distance that a structure must be set back from property lines, street lines, or lot lines;

(3) affects the size of a lot or the size, type, and number of structures that may be built on the lot;

(4) regulates or restricts the type of activities that may take place on the property, including commercial activities, sweepstakes activities, keeping of animals, use of fire, nuisance activities, vehicle storage, and parking;

(5) regulates architectural features of a structure, construction of fences, landscaping, garbage disposal, or noise levels; or

(6) specifies the type of maintenance that must be performed on a lot or structure, including maintenance of a yard or fence.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from V.T.C.A., Local Government Code, Sec. 230.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1044, Sec. 1, eff. Sept. 1, 2003. Renumbered from V.T.C.A., Local Government Code, Sec. 212.132 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.

Sec. 212.153. SUIT TO ENFORCE RESTRICTIONS. (a) Except as provided by Subsection (b), the municipality may sue in any court of competent jurisdiction to enjoin or abate a violation of a restriction contained or incorporated by reference in a properly recorded plan, plat, or other instrument that affects a subdivision located inside the boundaries of the municipality.

(b) The municipality may not initiate or maintain a suit to enjoin or abate a violation of a restriction if a property owners' association with the authority to enforce the restriction files suit to enforce the restriction.

(c) In a suit by a property owners' association to enforce a restriction, the association may not submit into evidence or otherwise use the work product of the municipality's legal counsel.

(d) In a suit filed under this section alleging that any of the following activities violates a restriction limiting property to residential use, it is not a defense that the activity is incidental to the residential use of the property:

(1) storing a tow truck, crane, moving van or truck, dump truck, cement mixer, earth-moving device, or trailer longer than 20 feet; or

(2) repairing or offering for sale more than two motor vehicles in a 12-month period.

(e) A municipality may not enforce a deed restriction which purports to regulate or restrict the rights granted to public utilities to install, operate, maintain, replace, and remove facilities within easements and private or public rights-of-way.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from V.T.C.A., Local Government Code, Sec. 230.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1044, Sec. 2, eff. Sept 1, 2003. Renumbered from V.T.C.A., Local Government Code, Sec. 212.133 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.

Sec. 212.1535. FORECLOSURE BY PROPERTY OWNERS' ASSOCIATION. (a) A municipality may not participate in a suit or other proceeding to foreclose a property owners' association's lien on real property.

(b) In a suit or other proceeding to foreclose a property owners' association's lien on real property in the subdivision, the association may not submit into evidence or otherwise use the work product of the municipality's legal counsel.

Added by Acts 2003, 78th Leg., ch. 1044, Sec. 4, eff. Sept. 1, 2003.

Sec. 212.154. LIMITATION ON ENFORCEMENT. A restriction contained in a plan, plat, or other instrument that was properly recorded before August 30, 1965, may be enforced as provided by Section 212.153, but a violation of a restriction that occurred before that date may not be enjoined or abated by the municipality as long as the nature of the violation remains unchanged.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from V.T.C.A., Local Government Code Sec. 230.004 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Renumbered from V.T.C.A., Local Government Code

Sec. 212.134 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), 3(33), eff. Sept. 1, 2003.

Sec. 212.155. NOTICE TO PURCHASERS. (a) The governing body of the municipality may require, in the manner prescribed by law for official action of the municipality, any person who sells or conveys restricted property located inside the boundaries of the municipality to first give to the purchaser written notice of the restrictions and notice of the municipality's right to enforce compliance.

(b) If the municipality elects under this section to require that notice be given, the notice to the purchaser shall contain the following information:

(1) the name of each purchaser;

(2) the name of each seller;

(3) a legal description of the property;

(4) the street address of the property;

(5) a statement that the property is subject to deed restrictions and the municipality is authorized to enforce the restrictions;

(6) a reference to the volume and page, clerk's file number, or film code number where the restrictions are recorded; and

(7) a statement that provisions that restrict the sale, rental, or use of the real property on the basis of race, color, religion, sex, or national origin are unenforceable.

(c) If the municipality elects under this section to require that notice be given, the following procedure shall be followed to ensure the delivery and recordation of the notice:

(1) the notice shall be given to the purchaser at or before the final closing of the sale and purchase;

(2) the seller and purchaser shall sign and acknowledge the notice; and

(3) following the execution, acknowledgment, and closing of the sale and purchase, the notice shall be recorded in the real property records of the county in which the property is located.

(d) If the municipality elects under this section to require that notice be given:

(1) the municipality shall file in the real property records of the county clerk's office in each county in which the municipality is located a copy of the form of notice, with its effective date, that is prescribed for use by any person who sells or conveys restricted property located inside the boundaries of the municipality;

(2) all sellers and all persons completing the prescribed notice on the seller's behalf are entitled to rely on the currently effective form filed by the municipality;

(3) the municipality may prescribe a penalty against a seller, not to exceed $500, for the failure of the seller to obtain the execution and recordation of the notice; and

(4) an action may not be maintained by the municipality against a seller to collect a penalty for the failure to obtain the execution and recordation of the notice if the municipality has not filed for record the form of notice with the county clerk of the appropriate county.

(e) This section does not limit the seller's right to recover a penalty, or any part of a penalty, imposed pursuant to Subsection (d)(3) from a third party for the negligent failure to obtain the execution or proper recordation of the notice.

(f) The failure of the seller to comply with the requirements of this section and the implementing municipal regulation does not affect the validity or enforceability of the sale or conveyance of restricted property or the validity or enforceability of restrictions covering the property.

(g) For the purposes of this section, an executory contract of purchase and sale having a performance period of more than six months is considered a sale under Subsection (a).

(h) For the purposes of the disclosure required by this section, restrictions may not include provisions that restrict the sale, rental, or use of property on the basis of race, color, religion, sex, or national origin and may not include any restrictions that by their express provisions have terminated.

Added by Acts 1989, 71st Leg., ch. 446, Sec. 1, eff. June 14, 1989. Renumbered from V.T.C.A., Local Government Code Sec. 230.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Renumbered from V.T.C.A., Local Government Code Sec. 212.135 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.

Sec. 212.156. ENFORCEMENT BY ORDINANCE; CIVIL PENALTY. (a) The governing body of the municipality by ordinance may require compliance with a restriction contained or incorporated by reference in a properly recorded plan, plat, or other instrument that affects a subdivision located inside the boundaries of the municipality.

(b) The municipality may bring a civil action to recover a civil penalty for a violation of the restriction. The municipality may bring an action and recover the penalty

in the same manner as a municipality may bring an action and recover a penalty under Subchapter B, Chapter 54.

(c) For the purposes of an ordinance adopted under this section, restrictions do not include provisions that restrict the sale, rental, or use of property on the basis of race, color, religion, sex, or national origin and do not include any restrictions that by their express provisions have terminated.

Added by Acts 1991, 72nd Leg., ch. 893, Sec. 2, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Local Government Code Sec. 230.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Renumbered from V.T.C.A., Local Government Code Sec. 212.136 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.

Sec. 212.157. GOVERNMENTAL FUNCTION. An action filed by a municipality under this subchapter to enforce a land use restriction is a governmental function of the municipality.

Added by Acts 2001, 77th Leg., ch. 1399, Sec. 2, eff. June 16, 2001.

Sec. 212.158. EFFECT ON OTHER LAW. This subchapter does not prohibit the exhibition, play, or necessary incidental action thereto of a sweepstakes not prohibited by Chapter 43, Business & Commerce Code, as added by Chapter 1119, Acts of the 77th Legislature, Regular Session, 2001.

Added by Acts 2003, 78th Leg., ch. 1044, Sec. 5, eff. Sept. 1, 2003.

SUBCHAPTER G. AGREEMENT GOVERNING CERTAIN LAND IN A MUNICIPALITYS EXTRATERRITORIAL JURISDICTION

Sec. 212.171. APPLICABILITY. This subchapter does not apply to land located in the extraterritorial jurisdiction of a municipality with a population of 1.9 million or more.

Added by Acts 2003, 78th Leg., ch. 522, Sec. 1, eff. June 20, 2003.

Sec. 212.172. DEVELOPMENT AGREEMENT. (a) In this subchapter, " extraterritorial jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42.

(b) The governing body of a municipality may make a written contract with an owner of land that is located in the extraterritorial jurisdiction of the municipality to:

(1) guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality for a period not to exceed 15 years;

(2) extend the municipality's planning authority over the land by providing for a development plan to be prepared by the landowner and approved by the municipality under which certain general uses and development of the land are authorized;

(3) authorize enforcement by the municipality of certain municipal land use and development regulations in the same manner the regulations are enforced within the municipality's boundaries;

(4) authorize enforcement by the municipality of land use and development regulations other than those that apply within the municipality's boundaries, as may be agreed to by the landowner and the municipality;

(5) provide for infrastructure for the land, including:

(A) streets and roads;

(B) street and road drainage;

(C) land drainage; and

(D) water, wastewater, and other utility systems;

(6) authorize enforcement of environmental regulations;

(7) provide for the annexation of the land as a whole or in parts and to provide for the terms of annexation, if annexation is agreed to by the parties;

(8) specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties; or

(9) include other lawful terms and considerations the parties consider appropriate.

(c) An agreement under this subchapter must:

(1) be in writing;

(2) contain an adequate legal description of the land;

(3) be approved by the governing body of the municipality and the landowner; and

(4) be recorded in the real property records of each county in which any part of the land that is subject to the agreement is located.

(d) The parties to a contract may renew or extend it for successive periods not to exceed 15 years each. The total duration of the original contract and any successive renewals or extensions may not exceed 45 years.

(e) A municipality in an affected county, as defined by Section 16.341, Water Code, may not enter into an agreement under this subchapter that is inconsistent with the model rules adopted under Section 16.343, Water Code.

(f) The agreement between the governing body of the municipality and the landowner is binding on the municipality and the landowner and on their respective successors and assigns for the term of the agreement. The agreement is not binding on, and does not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the development, except for land use and development regulations that may apply to a specific lot.

(g) An agreement under this subchapter constitutes a permit under Chapter 245.

(h) An agreement between a municipality and a landowner entered into prior to the effective date of this section and that complies with this section is validated.

Added by Acts 2003, 78th Leg., ch. 522, Sec. 1, eff. June 20, 2003.

Sec. 212.173. CERTAIN COASTAL AREAS. This subchapter does not apply to, limit, or otherwise affect any ordinance, order, rule, plan, or standard adopted by this state or a state agency, county, municipality, or other political subdivision of this state under the federal Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.), and its subsequent amendments, or Subtitle E, Title 2, Natural Resources Code.

Added by Acts 2003, 78th Leg., ch. 522, Sec. 1, eff. June 20, 2003.

Sec. 212.174. MUNICIPAL UTILITIES. A municipality may not require an agreement under this subchapter as a condition for providing water, sewer, electricity, gas, or other utility service from a municipally owned or municipally operated utility that provides any of those services.

Added by Acts 2003, 78th Leg., ch. 522, Sec. 1, eff. June 20, 2003.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 212.901. DEVELOPER REQUIRED TO PROVIDE SURETY. (a) To ensure that it will not incur liabilities, a municipality may require, before it gives approval of the plans for a development, that the owner of the development provide sufficient surety to guarantee that claims against the development will be satisfied if a default occurs.

(b) This section does not preclude a claimant from seeking recovery by other means.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 48(a), eff. Aug. 28, 1989.

Sec. 212.902. SCHOOL DISTRICT LAND DEVELOPMENT STANDARDS. (a) This section applies to agreements between school districts and any municipality which has annexed territory for limited purposes.

(b) On request by a school district, a municipality shall enter an agreement with the board of trustees of the school district to establish review fees, review periods, and land development standards ordinances and to provide alternative water pollution control methodologies for school buildings constructed by the school district. The agreement shall include a provision exempting the district from all land development ordinances in cases where the district is adding temporary classroom buildings on an existing school campus.

(c) If the municipality and the school district do not reach an agreement on or before the 120th day after the date on which the municipality receives the district's request for an agreement, proposed agreements by the school district and the municipality shall be submitted to an independent arbitrator appointed by the presiding district judge whose jurisdiction includes the school district. The arbitrator shall, after a hearing at

which both the school district and municipality make presentations on their proposed agreements, prepare an agreement resolving any differences between the proposals. The agreement prepared by the arbitrator will be final and binding upon both the school district and the municipality. The cost of the arbitration proceeding shall be borne equally by the school district and the municipality.

(d) A school district that requests an agreement under this section, at the time it makes the request, shall send a copy of the request to the commissioner of education. At the end of the 120-day period, the requesting district shall report to the commissioner the status or result of negotiations with the municipality. A municipality may send a separate status report to the commissioner. The district shall send to the commissioner a copy of each agreement between the district and a municipality under this section.

(e) In this section, "land development standards" includes impervious cover limitations, building setbacks, floor to area ratios, building coverage, water quality controls, landscaping, development setbacks, compatibility standards, traffic analyses, and driveway cuts, if applicable.

(f) Nothing in this section shall be construed to limit the applicability of or waive fees for fire, safety, health, or building code ordinances of the municipality prior to or during construction of school buildings, nor shall any agreement waive any fee or modify any ordinance of a municipality for an administration, service, or athletic facility proposed for construction by a school district.

Added by Acts 1990, 71st Leg., 6th C.S., ch. 1, Sec. 3.18, eff. Sept. 1, 1990.

Sec. 212.903. CONSTRUCTION AND RENOVATION WORK ON COUNTY-OWNED BUILDINGS OR FACILITIES IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of 250,000 or more.

(b) A municipality is not authorized to require a county to notify the municipality or obtain a building permit for any new construction or renovation work performed within the limits of the municipality by the county's personnel or by county personnel acting as general contractor on county-owned buildings or facilities. Such construction or renovation work shall be inspected by a registered professional engineer or architect licensed in this state in accordance with any other applicable law. A municipality may require a building permit for construction or renovation work performed on county-owned buildings or facilities by private general contractors.

(c) This section does not exempt a county from complying with a municipality's building code standards when performing construction or renovation work.

Added by Acts 1997, 75th Leg., ch. 271, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 368, Sec. 1, eff. Aug. 30, 1999.