



# Ellis County Sustainable Subdivision Regulations

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## Executive Summary

**North Central Texas Council of Governments**

**May 16, 2012**

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### **ELLIS COUNTY DEVELOPMENT REGULATIONS Executive Summary**

#### **Introduction**

The North Central Texas Council of Governments (NCTCOG) awarded Ellis County funds in 2006 for the Ellis County Subdivision Regulations planning study. The goal of the study was to develop a guide for drafting sustainable subdivision rules and regulations that can be used by all of the rural counties in the 16 county Non-Attainment area as Best Management Practices. The project also examined current regulations and the County and State level.

#### **Background**

Many Texans choose to live outside of traditional city limits in favor of a more rural lifestyle that can offer larger tracks of land, fewer property taxes, less regulation, and often not as many neighbors, or neighbors that are located farther away increasing a sense of privacy. Housing prices in more rural areas that are further from the urban cores are often more affordable due to the lower land prices which affect the overall cost of development and construction. This growth trend has been noted throughout the Dallas - Fort Worth Metroplex within the past several years for several outlying communities and Ellis County is one of those seeing their population on the rise.

Between 2000 and 2010, Ellis County's population grew from 111,360 to 149,610; an increase of 34% (Exhibit 1). The population is projected to increase roughly 70% to 252,768 by 2035 with some of the highest levels of growth occurring in unincorporated areas just outside city limits. Exhibit 2 displays the 2035 population projection for Ellis County.

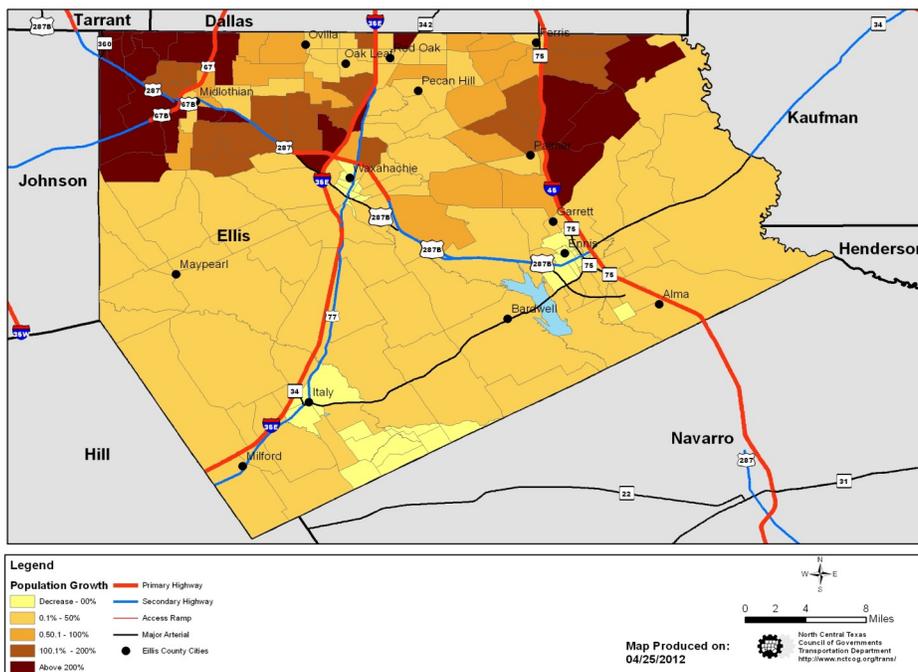
Exhibit 1. Ellis County Population Growth Comparison

County	2000 Population	2010 Population	Growth	2035 Projection	Projected Growth
Rockwall County	43,080	78,337	81.84%	172,568	120.29%
Hood County	41,100	51,182	24.53%	97,805	91.09%
Kaufman County	71,313	103,350	44.92%	193,509	87.24%
<b>Ellis County Total</b>	<b>111,360</b>	<b>149,610</b>	<b>34.35%</b>	<b>252,768</b>	<b>68.95%</b>
Ellis County Unincorporated	53,554	64,561	20.55%	137,325*	112.71%
Denton County	432,976	662,614	53.04%	1,053,903	59.05%
Tarrant County	1,446,219	1,809,034	25.09%	2,823,535	56.08%
Dallas County	2,218,899	2,368,139	6.73%	3,125,282	31.97%
Region	5,309,277	6,371,773	20.01%	9,833,378	54.33%

Source: NCTCOG RIS 2035 Population Projection, 2011; Census 2010

\*Includes the projected population living in currently unincorporated areas.

Exhibit 2. Ellis County 2035 Population Growth



Source: NCTCOG RIS 2035 Population projection, 2011; Census 2010

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Lower taxes and less restricted building codes and regulations may have led to more and more developers going outside of established city limits where they are not as constrained by extensive land use regulations, zoning requirements, permitting fees, and density requirements. This is especially an issue for the rural counties in the North Central Texas, such as Ellis County, where developers are starting to develop commercial and residential land uses in flood plain areas which create problems for residents later on.

For Ellis County to grow and develop its rural setting sustainably, preserving as much of the rural atmosphere as possible, an enhanced and uniform set of sustainable subdivision regulations should be considered. Subdivision Regulations at the County level are allowed by the State. This may help protect commercial and residential developments located in unincorporated areas, particularly flood hazard zones, and simultaneously preserve traditional Ellis County land uses such as large lot sizes and small farms.

To combat current growth trends, Ellis County sought to have its subdivision rules and regulations evaluated and recommendations made for a updated version to accommodate and manage growth sustainably. The Ellis County Subdivision Regulations Project was funded through the 2005-2006 Sustainable Development Call for Projects to create a sustainable subdivision regulations format applicable to all of the rural counties in the 16 county non-attainment area as a Best Management Practices for their regulations.

### **Purpose and Need**

Each county in the 16-County NCTCOG MPA has a different set of subdivision regulations that attempt to tackle various issues such as septic regulations, flood plain management, and housing regulations. Such development issues create a much larger need for sound and sustainable subdivision regulations. Unbridled growth has the potential to overwhelm existing public facilities such as storm drains and sewage treatment plants, which may lead to flooding. Counties are limited by the State of Texas in how they can regulate these development issues due to limited land use authority. The Ellis County Sustainable Subdivision Regulations Project was created to address these issues and provide a template for rural counties to adopt for the creation of sustainable subdivision regulations.

### **Legislative Constraints**

A Legislative and Statutory review was conducted by Shannon, Gracey, Ratliff, & Miller, L.L.P. (ShannonGracey) to determine the limitations and powers Texas counties possess to regulate land use. The details of this review were presented in a

series of formal memos and are included in this report. The following results were found.

Ellis County, like many other Texas counties, is handicapped by state laws that prohibit them from adopting reasonable land use restrictions to control rapid growth, prohibit incompatible land uses and promote sustainable development. Over the years, a patchwork of statutory grants have been passed by the legislature to aid some counties in this effort, but none of the state grants of land use control have been extended to Ellis County. There is no template or state suggested set of subdivision rules and regulations available to Texas counties which has resulted in a tremendous lack of uniformity of such regulations from county to county.

Even with the growing interest in extending land use regulations beyond municipal boundaries, the Texas legislature continues to handle county land use authority in an ad hoc, or improvised manner, which has lead to a disorganized, confusing, and ineffective approach to statewide county land use regulation that results in a significant impediment to achieving long term sustainable development land use goals for most counties.

In the last five legislative sessions significant inroads have been met in extending to counties additional land use regulatory controls enjoyed by most of their neighboring cities. They include, but are not limited to the following:

- Allowing designated urban counties, including Ellis County, the same broad subdivision planning powers given to cities
- The regionalization of land use planning by requiring cities and counties to coordinate their subdivision platting regulations in the cities extraterritorial jurisdiction
- Grant of authority to counties to establish building or setback lines on public roads in the county
- Allowing counties with planning and zoning commissions to adopt rules and regulations governing condominiums which supplement to Uniform Condominium Act

Additional details on legislative restraints and allowances are available in the Consultant Memo's, which are included in the Appendix.

### **Review of Existing Ellis County Subdivision Regulations**

The current structure of Ellis County's subdivision rules and regulations is not as clear as it could be and was reported as difficult to administer by County staff. The sections of the document are not organized by relevance to one another, and many components, such as land use and location restriction or construction, are detailed

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under multiple sections of the document rather than a single section. The lack of clarity makes the existing regulations difficult for citizens, developers, and third-parties to understand and utilize when planning development projects. This also makes it difficult for County officials to enforce the rules and regulations. Like many counties throughout the state, Ellis County developed its subdivision rules and regulations in a patchwork fashion over the years, adding various regulations to address issues as they arose within the county. Additionally, inconsistent terminology, incomplete definitions and conflicts within the document itself significantly hindered the County's ability to uniformly control growth and promote sustainable development.

Because developing a complete new set of subdivision regulations is not within the scope and resources of this project, the study develops a template to better organize the chapters in the existing ordinance. The consultant also redrafted Chapters 101 – Development Regulations in General, and 106 – Subdivision and Platting of Property, as a stylistic example for the County to follow as it decides to rewrite additional chapters. Descriptions of Chapters 101 and 106 are below in the chapter review. The remaining chapters were placed in the template to be rewritten at a later date.

### Chapter Review

Chapters 101 and 106 of the ordinance template were previously submitted for discussion purposes to representatives of Ellis County. The remaining chapters constitute a proposed template or outline only and were not drafted to meet the specific needs or circumstances of the County. As presented, the document constitutes a template alone, and should not be adopted by Ellis County or any other Texas County without significant input from County staff, legal advisors, local citizens, and the Commissioners Court. With the exception of the Reserved Chapters (explained below), the language in Chapters 101-180 represent the consultant's suggestions for a best practices approach to these specific chapters. They are templates to use as a guide by Ellis County or any other County.

### Reserved Chapters

The following Chapters are listed as Reserved in the subdivision regulations. The Reserved Chapters were not included in the ordinance template because they are placeholders that allow the County to adopt future ordinances or expanded sections and plug them into one or more of the reserved chapters depending upon their subject matter.

CHAPTERS 102 – 105

CHAPTERS 107 – 110

CHAPTERS 112 – 114

CHAPTERS 116 – 119

CHAPTERS 121 – 124

CHAPTERS 126 – 129

CHAPTERS 131 – 134

CHAPTERS 136 – 139

CHAPTERS 141 – 144

CHAPTERS 146 – 149

CHAPTERS 151 – 154

CHAPTERS 156 – 159

CHAPTERS 161 – 164

CHAPTERS 166 – 169

CHAPTERS 171 – 179

### Chapter 101—Development Regulations in General

Chapter 101 sets the stage for the rewrite of the bulk of the Ellis County selected ordinances, and displays the suggested format, terminology and processes to be adopted in the rewrite process. The chapter reviews the management procedures for properties within a municipality and Ellis County that must follow the development regulations of both the municipality and Ellis County. It provides an overview of the procedures that govern the requirements for review and approval based on the identity of the reviewing authority. The procedures include, but are not limited to, general application and approval procedures, definitions, enforcement procedures, and public participation.

### Chapter 106—Subdivision and Platting of Property

This chapter governs the activities associated with the subdivision of property within the County, including the construction of infrastructure and utilities, the construction and dedication of features to the county for maintenance and operation and, and documenting and recording the requirements for these activities based on the approval of the county. It includes, but is not limited to general requirements for subdivisions, preliminary plan and final plat, and approval of final plat.

### Chapter 111—Site Development Review and Development Authorizations

This Chapter governs the issuance of various types of development reviews and development authorizations based on other chapters within these regulations. Development authorizations and permits governed under this chapter include Flood Hazards, on-site sewage facility permits, manufactured home rental community permits, regulated land use/ location restriction permits.

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### **Chapter 115—Water and Waste Water Availability**

This Chapter governs demonstrations of water and wastewater availability required in conjunction with the approval of subdivision plats and the issuance of permits for Manufactured Home Rental Communities, unless excluded or exempted under State law or as exempted in these Regulations.

### **Chapter 120—Roadway Standards**

This Chapter details the design and construction of all Regulated Roadways as defined in Chapter 101, including, but not limited to the minimum roadway widths and building set back lines for Regulated Roadways.

### **Chapter 125 – Storm Water Management Standards**

This Chapter shall govern the design, construction and public dedication and use of all drainage, flood control and storm water management facilities and features (“storm water management facilities”) for Subdivisions and Manufactured Home Rental Communities within the County but outside the incorporated limits of any municipality in the County.

### **Chapter 130 – Construction and Acceptance of Maintenance for Public Infrastructure**

This Chapter provides details on the construction process for public infrastructure and the procedures and conditions for the County to accept maintenance responsibility for any public infrastructure. Specifically, the chapter covers the construction of public roadways, public storm water management facilities and features; public utilities, including water and wastewater utilities, and, public safety and emergency access features.

### **Chapter 135 – Flood Damage Prevention**

This Chapter governs activities associated with development in flood hazard areas. Its purpose is to promote public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to protect human life and health, and minimize expenditure of public money for costly flood control projects. This includes maintaining a stable tax base by facilitating the sound use and development of flood-prone areas to minimize future flood blighted areas. Its purpose is to minimize the need for rescue and relief efforts associated with flooding, and minimizing prolonged business interruptions and damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.

### **Chapter 140 – Onsite Sewage Facilities**

This Chapter governs activities associated with the design, installation, maintenance and operation of any regulated on-site sewage facility (OSSF) within the jurisdiction of Ellis County. It documents and records the requirements for these activities based on the approval of the County.

### **Chapter 145 – Manufactured Home Rental Communities**

This Chapter governs the issuance of Development Authorizations for Manufactured Home Rental Communities within the County. Development, including any associated construction of a Manufactured Home Rental Community (MHRC) may not begin before a Development Authorization has been issued by the County. These regulations apply to a manufactured home rental community for which construction is commenced on or after the effective date of these Regulations. Development Authorization for Manufactured Home Rental Communities shall be issued in the form of a Development Authorization.

### **Chapter 150 – Use of County Properties or Facilities**

This Chapter governs certain activities and improvements on, in, above or under certain County properties or facilities. A Development Authorization is required for any of the activities or improvements associated with any of the designated County properties or facilities, including roadway Right-of-Way. No driveway or utility construction, mail boxes, landscaping or any other encroachment into public right-of-way or easements shall be allowed without first obtaining a Development Authorization from the County. These regulations govern all real property owned or operated by the County or held in trust for the public.

### **Chapter 155 – Land Use and Location Restrictions**

This Chapter governs certain types of land use and the location of certain activities within the County. It provides land use definitions and details the permitting and application procedure for regulated uses such as sexually oriented businesses and automotive salvage yards.

### **Chapter 60—Economic Incentives for Development Activities**

This Chapter governs economic incentives given by the County for qualifying activities conducted under or in conjunction with a Development Authorization issued by the County. It details authorized economic incentives such as rebates on application fees and tax exemptions. Qualifying activities for economic incentives include, but are not limited to, affordable housing, water conservation features, and low density developments.

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### **Chapter 165 – Conservation Development**

This Chapter governs activities associated with the design and development of a Conservation Development, including construction of infrastructure and utilities, the construction and dedication of features to the County for maintenance and operation, and documenting and recording the requirements for these activities based on the approval of the Commissioners Court.

### **Chapter 170 – Development Agreements**

This Chapter governs the negotiation and use of development agreements between the County and persons seeking Development Authorizations from the County. The Commissioners Court has authorized special provisions for Development Agreements to allow greater flexibility and creativity in the design of developments, allow for phased development, and facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner. The development agreements also allow the County to provide incentives for desired development conditions that exceed the legal authority of these Regulations, and allow the County to enforce land use and development regulations other than those presented in these regulations.

### **Chapter 180 – Reference Documents**

Ellis County shall acquire and maintain copies of all reference documents utilized in conjunction with or referenced within these Regulations. These documents shall be made available for inspection by the public at no charge during normal business hours at location(s) designated by the Department. The Department may also make these documents available to the public using whatever means it may deem appropriate and as required by federal, state or local law, including posting on any electronic medium maintained or used by the County.

### Conclusion and Next Steps

The next step in the Ellis County Subdivision Regulations Study is drafting the Subdivision Regulations. The task of rewriting subdivision regulations may take multiple years given the level of input and review needed from local stakeholders, experts, and officials. Upon completion, the document will need to be vetted through the same channels for final approval and adoption. The following recommendations for drafting the new Ellis County Subdivision Regulations are as follows:

- a) Any new regulations should be formatted in the standard administrative code structure, using chapters, subchapters and sections similar to most cities and state entities.
- b) Develop a uniform development code structure that consolidates and streamlines processes across departments.
- c) Use standardized and consistent terminology to consolidate similar wording across regulatory programs to eliminate inconsistencies and redundancy.
- d) Consider possibly adding sections for:
  - Conservation developments
  - Additional land use restrictions
  - Economic incentives
  - Development agreements
  - Consolidate regulations for mobile home communities
  - Greatly expand current regulations concerning storm water management facilities
  - Consolidate and expand drainage requirements and flood control prevention into a single chapter; possibly designate a flood plain administrator

### Conclusion

The Ellis County Subdivision Regulations Template should be only used as a template for the future rewrite of the actual subdivision regulations document. The Chapters contained in the Ellis County Subdivision Regulations template are designed to be a guide for the form and language of future subdivision regulations written for Ellis County and the other rural counties in the 16-county Metropolitan Planning Area. The rewritten Ellis County Subdivision regulations should not only include land use controls and regulations to prevent flooding, but provisions to include public feedback as well. As Ellis County continues to grow, it will be important to adjust the subdivision regulations for both population growth and changes in the demographic makeup of the County.