

ORDER NO. 2022-1

AN ORDER OF THE COMMISSIONERS COURT OF MENARD COUNTY, TEXAS: (1) APPROVING A TAKINGS IMPACT ASSESSMENT FOR THE PROPOSED SUBDIVISION AND MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS FOR MENARD COUNTY, TEXAS; (2) ESTABLISHING A PUBLIC MEETING DATE FOR CONSIDERATION OF THE APPROVAL AND ADOPTION OF SAID REGULATIONS; AND (3) ESTABLISHING AN EFFECTIVE DATE AND COMPLIANCE WITH THE TEXAS OPEN MEETING ACT.

WHEREAS, Menard County, Texas (“County”) is a county of the State of Texas, having been duly created and organized under the constitution and laws of Texas, and further, the Menard County Commissioners Court (“Commissioners Court”) is the governing body of said County; and

WHEREAS, pursuant to Chapters 232 and 233 of the Texas Local Government Code and other authority, the Commissioners Court may adopt and enforce regulations governing plats, subdivisions of land, and manufactured home rental communities in the unincorporated area of the county to promote the health, safety, morals, and general welfare, as well as the safe, orderly, and healthful development of said area, said matters being declared to be worthwhile public purposes and in the public interest; and

WHEREAS, the Commissioners Court is considering the approval, adoption, and enactment of the **Subdivision and Manufactured Home Rental Community Regulations for Menard County, Texas** (“Regulations”), and pursuant to Chapter 2007 of the Texas Government Code and other authority, has conducted a takings impact assessment (“TIA”) regarding the proposed Regulations in the form and scope described in the attached **Exhibit 1**; and

WHEREAS, the Commissioners Court desires by this order to (1) approve and adopt the TIA attached as **Exhibit 1** regarding the proposed Regulations, (2) give public notice of the TIA approval as required by law, and (3) give notice of County intent to consider approval, adoption, and enactment of the proposed Regulations at a subsequent public meeting of the Commissioners Court as hereafter described;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Menard County Commissioners Court, for and on behalf of said County and in the public interest, as follows:

- (1) Unless otherwise designated, the past, present, or future tense shall each include the other, the masculine, feminine, or neuter gender shall each include the other, and the singular and plural number shall each include the other where necessary for a correct meaning.

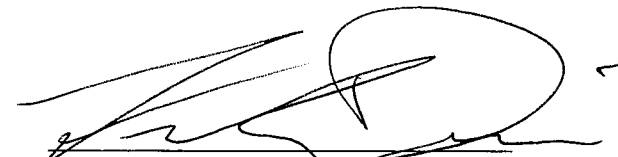
- (2) All statements made in the caption and preliminary recitals of this order and all attached documents are incorporated by reference.
- (3) The Commissioners Court approves and adopts a takings impact assessment regarding the proposed **Subdivision and Manufactured Home Rental Community Regulations for Menard County, Texas**, in the form and scope described in the attached **Exhibit 1**.
- (4) The Commissioners Court directs that: (a) this executed order and the TIA attached as **Exhibit 1** regarding the proposed Regulations shall be filed in the official minutes for public inspection and copying; and (b) the County shall give public notice of this TIA approval as required by law, including publication of a newspaper notice which shall include a reasonably specific summary of the TIA and the name of the County official from whom a copy of the TIA may be obtained.
- (5) The Commissioners Court hereby gives notice of County intent to consider the approval, adoption, and enactment of the proposed Regulations at the public meeting of the Menard County Commissioners Court to be conducted on August 29, 2022 at 9:00 a.m. at the Menard County Court Courtroom (Commissioners' Courtroom), Menard County Courthouse, 206 East San Saba Avenue, Menard, Texas 76859, and further, directs that all public notice of that meeting be accomplished as required by law.
- (6) All notice and conditions precedent for the approval and adoption of the TIA attached as **Exhibit 1** have been accomplished.
- (7) This order shall take effect immediately from and after its passage.
- (8) This matter was ordered, approved, and adopted at a public meeting held in compliance with Chapter 551 of the Texas Government Code, the Texas Open Meetings Act.

ORDERED, APPROVED, AND ADOPTED on the 25th day of July, 2022.

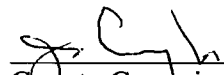
**THE COMMISSIONERS COURT OF
MENARD COUNTY, TEXAS**



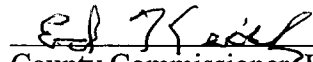
County Judge
Menard County, Texas



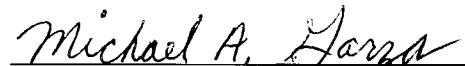
County Commissioner, Precinct 1
Menard County, Texas




County Commissioner, Precinct 2
Menard County, Texas



County Commissioner, Precinct 3
Menard County, Texas



County Commissioner, Precinct 4
Menard County, Texas

ATTEST:


County Clerk or Deputy County Clerk
Menard County, Texas

EXHIBIT 1
(Takings Impact Assessment)

**TAKINGS IMPACT ASSESSMENT REGARDING PROPOSED SUBDIVISION AND
MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS
FOR MENARD COUNTY, TEXAS**

Introduction

(1) On this the 25th day of July, 2022, and pursuant to Chapter 2007 of the Texas Government Code and other authority, Menard County, Texas, by and through its Commissioners Court, hereby approves and adopts this Takings Impact Assessment regarding the following proposed governmental action: the proposed approval, adoption, and enactment of the Subdivision and Manufactured Home Rental Community Regulations for Menard County, Texas pursuant to the express and implied authority of the County to enact said regulations pursuant to Chapters 232 and 233 of the Texas Local Government Code, and all other authority described in said regulations and this instrument, the contents of which are incorporated by reference.

Definitions and Interpretation

(2) The following terms shall have the following meanings unless otherwise designated, whether a term appears in capital lettering or in bold, italicized, or underlined print:

- (a) “Act” or “Chapter 2007” shall mean Chapter 2007 of the Texas Government Code (TEX. GOV’T CODE §§ 2007.001-.045);
- (b) “Chapter 232” shall mean Chapter 232 of the Texas Local Government Code;
- (c) “Colonias” shall mean substandard, generally impoverished, rural subdivision or other developments that lack basic utilities and other infrastructure;
- (d) “County” shall mean Menard County, Texas acting by and through its Commissioners Court, the County’s governing body;
- (e) “County floodplain regulations” shall mean the County’s flood damage prevention order, ordinance or other floodplain management regulations adopted by the County;
- (f) “County sewer, septic, and OSSF regulations” shall mean the sewer, septic, and OSSF regulations adopted by the County;
- (g) “Guidelines” shall mean the guideline analysis developed by TXOAG for implementation of a takings impact assessment pursuant to Chapter 2007;

- (h) “MHRC” shall mean manufactured home rental communities as defined by Chapter 232 and the Regulations;
 - (i) “NFIP” shall mean the National Flood Insurance Program pursuant to 42 U.S.C. §§ 4001 *et seq.*, and 44 C.F.R. Ch. I, Subch. B, Parts 59, 60, and other authority;
 - (j) “OSSF” shall mean septic and onsite sewage facilities;
 - (k) “Proposed action,” “proposed governmental action,” “order,” or “project” shall mean the County’s final approval, adoption, and enactment of the Regulations;
 - (l) “Regulations” shall mean the proposed Subdivision and Manufactured Home Rental Community Regulations for Menard County, Texas, the contents of which are incorporated by reference;
 - (m) “State sewer, septic, and OSSF regulations” shall mean the sewer, septic, and OSSF regulations applicable for use in Menard County pursuant to the Texas statutes, TCEQ regulations, or other administrative agency regulations;
 - (n) “Stated Authority” shall mean Chapters 232 and 233 of the Texas Local Government Code, the NFIP and TFCIA, the State sewer, septic, and OSSF regulations, the County floodplain regulations, the County sewer, septic, and OSSF regulations, and all other legal authority or local regulations described in this TIA and the Regulations;
 - (o) “TCEQ” shall mean the Texas Commission on Environmental Quality;
 - (p) “TFCIA” shall mean the Texas Flood Control and Insurance Act pursuant to Chapter 16, Subchapter I, of the Texas Water Code (TEX. WATER CODE §§ 16.311-.324);
 - (q) “TIA” shall mean a takings impact assessment pursuant to Chapter 2007; and
 - (r) “TXOAG” shall mean the Office of the Texas Attorney General.
- (3) Unless otherwise designated, the past, present, or future tense shall each include the other, the masculine, feminine, or neuter gender shall each include the other, and the singular and plural number shall each include the other where necessary for a correct meaning.

- (4) This TIA is approved and adopted pursuant to Chapter 2007 and other authority.

TXOAG Guidelines

- (5) According to TXOAG guidelines: (a) a TIA is required to describe the purpose of the proposed governmental action and whether it may constitute a taking of private real property rights; and (b) if so, the TIA is required, among other things, to identify any reasonable alternative action that might accomplish the same purpose, and to evaluate such alternative, including whether it would constitute a taking as described by Chapter 2007.

Notice of Public Meeting to Consider Approval of Proposed Regulations

- (6) The County gives notice of its intent to consider the approval, adoption, and enactment of the proposed Regulations at the public meeting of the Menard County Commissioners Court to be conducted on August 29, 2022, at 9:00 a.m. in the Menard County Courtroom (Commissioners' Courtroom) at the Menard County Courthouse, 206 East San Saba Avenue, Menard, Texas 76859.

Proposed Regulations

- (7) The proposed Regulations are designed, among other things, to govern plats, subdivisions of land, and manufactured home rental communities ("MHRC"), in the unincorporated area of the county in order to: promote the health, safety, morals, and general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county; and ensure that adequate plats, plans, design and planning procedure, water, sewer, septic, and OSSF facilities, and utility and transportation infrastructure are provided in the unincorporated area of the county.

- (8) The proposed Regulations contain standards, requirements, and procedure for subdivision plats and MHRCs in the unincorporated area of the county relating, among other things, to: required compliance with federal law, state law, and County regulations; accomplishment of all public purposes described in the Regulations; definitions, an interpretation guide, establishment of an effective date, compliance with the Texas Open Meetings Act, application of certain legal authority, and other administrative provisions; development, design, and construction regarding land development in the unincorporated area; subdivision plat procedure and review, including requirements for recordation, exceptions or exemptions, variances, revision, vacation, amendment, subdivision regulation in the extraterritorial jurisdiction of an incorporated municipality, and dormant plat procedure; MHRC infrastructure development plan standards, requirements, and procedure, including restrictions on MHRC construction and occupancy unless approved by the County; bond or other financial security requirements; a fee schedule and related procedure; subdivision plat and MHRC infrastructure plan requirements relating to formatting, form, scope, content, disclosure, signature, and certification; division of land standards; survey, topographical data, lot/block, monumentation, and other data and disclosure requirements; water, sewer, septic, and OSSF facilities and service requirements, including compliance with minimum state and County standards; for certain subdivisions, compliance with the model subdivision rules described by chapter 16 of the Texas Water Code and other authority; engineer, surveyor, and/or geoscientist

review, analysis, and disclosure requirements; utility standards, service, and connection requirements, including compliance with minimum state and County standards and disclosure requirements; floodplain identification, management, and drainage requirements, including descriptions, plans, and disclosure; requirements for road/driveway design and construction, drainage plans and facilities, lot frontages, and building and set-back lines; purchase contract disclosure requirements and procedure related to water availability; groundwater and surface water availability, sufficiency, and disclosure requirements; requirements regarding fire suppression systems and disclosure; lienholder identification and lien subordination requirements; limitations and restrictions regarding subdivision plat or MHRC approval by the County; restrictions regarding the discharge of firearms and hunting with bows/arrows in certain subdivisions; and enforcement remedies and penalties.

Public Inspection of TIA and Proposed Regulations

(9) This TIA and the proposed Regulations may be: (a) reviewed and copied during regular business hours at the business office of the Hon. Christy Eggleston, the County Clerk of Menard County, Texas, in the Menard County Courthouse, 206 East San Saba Avenue, Menard, Texas 76859 (telephone 325-396-4682); or (b) reviewed and downloaded from the County's internet website at www.co.menard.tx.us.

TIA Analysis

(10) Applying the TXOAG Guidelines, the County makes the following determinations regarding the County's proposed governmental action.

QUESTION 1: Is the Governmental Entity undertaking the proposed action a Governmental Entity covered by the Act, i.e., is it a "Covered Governmental Entity?"

ANSWER: Yes. The County is a governmental entity undertaking the proposed action. Therefore, the County is a "Covered Governmental Entity" pursuant to the Act and TXOAG Guidelines.

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

ANSWER: No. Pursuant to Chapter 2007 and the Stated Authority, the proposed Regulations are exempt from coverage under or application to the Act. Therefore, the County's proposed action and enactment of the Regulations do not constitute a Covered Governmental Action pursuant to the Act or TXOAG Guidelines as hereafter described.

(a) Items (1) through (9) of this TIA are incorporated by reference.

- (b) Under the Stated Authority, the County, among other things, has obligations in the unincorporated area designated by law as a floodplain to: regulate construction and other development; regulate water safety; prevent waste and subsidence; regulate sewer and on-site sewage/OSSF facilities; protect the rights of owners of interests in groundwater; promote the public health, safety and general welfare; and minimize public and private losses (including death, personal injury, and property damage) due to flood conditions. The Regulations contain provisions to require development compliance with these obligations, including but not limited to: plat and plan disclosure statements and descriptions regarding floodplain locations; compliance with the Stated Authority; efficient drainage and management of storm water runoff; coordination of drainage with the general drainage pattern for the area; reasonable specifications for the adequate drainage of roads; and compliance with minimum state and County standards regarding water, sewer, septic, OSSF, and/or utility facilities, connections, and service.
- (c) Under the Stated Authority, the County, among other things, has obligations in the unincorporated area to ensure reasonable drainage, including but not limited to: the efficient management of storm water runoff; the coordination of drainage with the general drainage pattern for the area; and compliance with minimum state and County standards regarding water, sewer, septic, OSSF, and/or utility facilities, connections, and service in order to avoid pollution and contamination caused through inadequate drainage. The Regulations contain provisions to require development compliance with these obligations.
- (d) Under the Stated Authority, the County, among other things, has obligations in the unincorporated area to regulate water safety, prevent waste and subsidence, and protect groundwater rights, including but not limited to requiring: purchase contract disclosures to describe the extent to which water will be made available to a subdivision, and if so, how and when it will be made available; plat and plan disclosure statements certifying that adequate groundwater is available; plat and plan disclosure statements certifying compliance with minimum state and County standards regarding proposed water, sewer, septic, and OSSF facilities, connections, and service, including, for certain subdivisions, compliance with the model subdivision rules described by chapter 16 of the Texas Water Code and other authority; and compliance with applicable state and County sewer, septic, OSSF, and floodplain regulations. The Regulations contain provisions to require development compliance with these obligations.

- (e) Under the Stated Authority, the County, among other things, has obligations in the unincorporated areas to regulate sewer, septic, and OSSF facilities. The Regulations contain provisions to require development compliance with these obligations, including but not limited to: descriptions of the facilities to be constructed or installed; plat and plan disclosure statements certifying compliance with minimum state and County standards, including, for certain subdivisions, compliance with the model subdivision rules described by chapter 16 of the Texas Water Code and other authority; and compliance with the Stated Authority to protect public health, safety, and welfare.
- (f) The approval, adoption, and enactment of the Regulations shall constitute a reasonable, good faith action taken by the County regarding subdivision and MHRC development in the unincorporated area, pursuant to the regulatory powers (express or implied) granted to the County by the Stated Authority to: fulfill mandatory obligations under federal, state, and local law; regulate construction in an area designated under law as a floodplain; regulate water safety, quality, and sufficiency; prevent waste and subsidence; protect rights of owners of interests in groundwater; regulate sewer and on-site sewage/OSSF facilities; prevent a grave and immediate threat to life or property; and provide a response to a real and substantial threat to public health and safety (including the occurrence of colonias or other substandard development), said action being designed to significantly advance the health and safety purpose, and said action not imposing a greater burden than is necessary to achieve that purpose. Therefore, the Regulations are exempt from coverage under or application to Chapter 2007, pursuant to the exceptions authorized by § 2007.003(b) of the Texas Government Code and other authority.

QUESTION 3: Does the Covered Governmental Action result in a burden on “Private Real Property” as that term is defined in the Act?

ANSWER: No. Pursuant to Chapter 2007 and the Stated Authority, the County has determined the following:

- (a) The Answer to **QUESTION 2** above is incorporated by reference. Pursuant to Chapter 2007 and the Stated Authority, the proposed Regulations and project are exempt from coverage under or application to the Act. Therefore, the County’s proposed action and enactment of the Regulations do not constitute a Covered Governmental Action pursuant to the Act or TXOAG Guidelines.

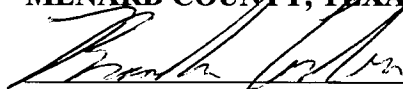
- (b) Pursuant to the Stated Authority, the public purposes of the Regulations include, among other things, the following matters: the Regulations shall govern plats, subdivisions of land, and manufactured home rental communities within the unincorporated area in order to promote the health, safety, morals, and general welfare, and the safe, orderly, and healthful development of the unincorporated area; and the Regulations shall ensure that adequate plats, plans, design and planning procedures, water, sewer, septic, and OSSF facilities, connections, and service (and related utility and transportation infrastructure) are provided in the unincorporated area to prevent colonias or other substandard development. The proposed enactment of the Regulations is authorized pursuant to the Stated Authority and shall accomplish or substantially achieve all public purposes described in this TIA and the Regulations.
- (c) The Regulations require subdivision and MHRC development in the unincorporated area to occur in compliance with the Stated Authority. Given the requirements of the Stated Authority, no (or alternatively minimal) new burdens or restrictions will be imposed or created by the Regulations with respect to any private real property. A critical need exists in Menard County, Texas for the enactment of the Regulations, in the public interest, because unrestricted development in the unincorporated area will be detrimental to (i) the conservation, preservation, and protection of groundwater and surface water resources, and (ii) the public health, safety, and welfare by contributing to the decline of residential neighborhoods and the installation or development of colonias or other substandard development.
- (d) Existing subdivisions and MHRCs which may be affected by the enactment of the Regulations may continue to operate, provided they are not enlarged or expanded.
- (e) The enactment of the Regulations will not: result or require a physical taking of private real property; deprive an owner of affected real property of all economically viable uses of the property; reduce market value of the real property, or have a significant impact on the owner's economic interest; or deny the owner a fundamental right of ownership, including rights of title, possession, enjoyment, exclusion of unwanted persons from the property, and the conveyance or transfer of property interests. Should the Regulations be enacted: no new public interests are purported to be created, established, or transferred to the County; no (or alternatively minimal) new burdens or restrictions will be imposed or created by the Regulations with respect to any private real property; the Regulations will not require a private real property owner to dedicate property to the public, except as may

be required regarding utility easements for utility service, if said service is planned for the property by the owner.


- (f) As potential alternative actions, the County could modify the Regulations to: reduce or diminish mandatory developer or owner compliance with the minimum development standards and requirements described in the answers to **QUESTIONS 2 and 3** herein; and request developers or owners of real property to self-regulate their development sites in the public interest by consent in the form, manner, and scope described in the Regulations. These potential alternative actions, however, are not viable because: the proposed Regulations are authorized for enactment and enforcement by the County pursuant to the Stated Authority; the alternative actions would not adequately promote and protect the public health, safety, morals, and general welfare, and the safe, orderly, and healthful development, of the unincorporated area by requiring the provision of adequate plats, plans, design and planning procedures, water, sewer, septic, and OSSF facilities, connections, and service (including compliance with minimum state and County standards) in the said area, given the present risk for colonias or other substandard development in Menard County, Texas due to increased private land development opportunities in this Hill Country and West Texas region for the sale of lots to the public for residential or recreational purposes; and the proposed Regulations shall accomplish or substantially achieve all public purposes described in this TIA and said Regulations. No viable alternative action exists which can accomplish the same development safeguards and other public purposes described in this TIA and the Regulations.
- (g) No taking of private real property or rights in private real property, as defined by the Chapter 2007, will occur as a result of the County's proposed action and enactment of the Regulations. Therefore, a **"No Private Real Property Impact Determination"** is hereby made by the County regarding the Regulations and no further compliance with or analysis under Chapter 2007 is required by the TXOAG Guidelines.


ORDERED, APPROVED, AND ADOPTED on the 25th day of July, 2022.

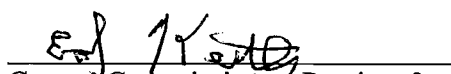
**THE COMMISSIONERS COURT OF
MENARD COUNTY, TEXAS**

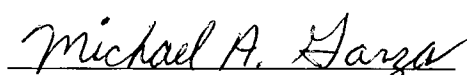


County Judge
Menard County, Texas



County Commissioner, Precinct 1
Menard County, Texas


County Commissioner, Precinct 2
Menard County, Texas


County Commissioner, Precinct 3
Menard County, Texas


County Commissioner, Precinct 4
Menard County, Texas

ATTEST:


County Clerk or Deputy County Clerk
Menard County, Texas