**ORDER #347**

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| **STATE OF TEXAS** | § | **IN THE COMMISSIONERS COURT** |
| **COUNTY OF COMAL** | § | |

**COMAL COUNTY PUBLIC RIGHT-OF-WAY ORDER FOR PRIVATE CONSTRUCTION WITHIN PUBLIC RIGHT-OF-WAY**

**CHAPTER 41. ORDER**

**WHEREAS**, the Texas Transportation Code §251.016 gives the commissioners court of a county the general control over all roads, highways, and bridges in the county;

**WHEREAS**, construction within the Public Right-of-Way of County maintained roads may impact the integrity of the county roads and/or safety of vehicular traffic by creating physical obstructions;

**WHEREAS**, with the increase volume of traffic on county roads, it is essential that driveway entrances and exits of adequate design be provided for abutting properties, so that ingress and egress may be made as safe as possible to the traveling public;

**WHEREAS**, the Comal County Commissioners Court, in the interest of the health, safety and welfare of the residents of Comal County, desire to control the construction within the Public Right-of-Way of County maintained roads; and

**WHEREAS**, the Comal County Commissioners Court desires to adopt the permitting regulations set forth in Title 4 to be incorporated into the County's subdivision regulations.

**NOW THEREFORE, BE IT ORDERED** that any construction occurring within the Public Right-of-Way of a County maintained road shall require a permit issued by the Comal County Commissioners Court or its Authorized Agent.

**BE IT FURTHER RESOLVED THAT** the Comal County Commissioners Court hereby adopts the permitting regulations set forth in Title 4 and authorizes the County Engineer to enforce such regulations.

**EFFECTIVE THIS** 25th **DAY OF** September **2014.**

SHERMAN KRAUSE, COUNTY JUDGE

Absent
DONNA ECCLESTON,
COUNTY COMMISSIONER, PRECINCT #1

SCOTT HAAG,
COUNTY COMMISSIONER, PRECINCT #2

KEVIN WEBB,
COUNTY COMMISSIONER, PRECINCT #3

JAN KENNADY,
COUNTY COMMISSIONER, PRECINCT #4

COMMISSIONERS' COURT COMAL COUNTY, TEXAS

ATTEST: Joy Streater
JOY STREATER, COUNTY CLERK by Romelle Walkup, Deputy

## TITLE 4 – COMAL COUNTY PUBLIC RIGHT-OF-WAY ORDER FOR PRIVATE CONSTRUCTION WITHIN PUBLIC RIGHT-OF-WAY

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**WHEREAS**, the Comal County Commissioners Court desires to adopt the permitting regulations set forth in Title 4 to be incorporated into the County's subdivision regulations.

**NOW THEREFORE, BE IT ORDERED** that any construction occurring within the Public Right-of-Way of a County maintained road shall require a permit issued by the Comal County Commissioners Court or its Authorized Agent.

## CHAPTER 42. PRIVATE IMPROVEMENTS WITHIN PUBLIC RIGHT-OF-WAY

### 42.001. Definitions

(a) "Applicant" means any individual, corporation, partnership, limited partnership, joint venture or other legal entity applying for, acquiring or issued a Permit for the property for which the proposed Private Improvements serve. This includes all successors, assignees, and future property owners.

(b) "AASHTO" means the American Association of State Highway Transportation Officials.

(c) "Best Management Practices (BMPs)" means permanent treatment requirements, operating procedures, and practices to prevent or reduce the pollution of water in the state as required by a Texas Commission on Environmental Quality (TCEQ) approved Water Pollution Abatement Plan (WPAP) or Contributing Zone Plan (CZP).

(d) "Changes in Design" means any revision, alteration, or relocation in the design or the dimensions of the improvement in the Public Right-of-Way or across a County Road.

(e) "Clear Zone" means the unobstructed, relatively flat area beyond the edge of the traveled way that allows a driver to stop safely or regain control of a vehicle that leaves the traveled way. The width of the Clear Zone shall be compliant with Table 3.1 from the AASHTO Roadside Design Guide (2006) as currently amended.

(f) "Comal County Engineers Office (CCEO)" means the County Road Department headed by the County Engineer who serves as the County Road engineer.

(g) "Commissioners Court" means the Commissioners Court of Comal County, Texas.

(h) "County" means Comal County, Texas, a political subdivision of the State of Texas.

(i) "County Engineer" means the County Engineer of Comal County, Texas, or any employee authorized by said County Engineer to act on his behalf.

(j) "County Road or Public Easements or Public Right-of-Way" means any right, title or interest in land acquired, claimed and maintained by Comal County, Texas, for vehicular and pedestrian transportation, road safety and road drainage.

(k) "Culvert" means a pipe or structure, which provides waterway openings to conduct water for drainage purposes.

(l) "Driveway" means an improved surface (such as gravel, concrete or asphalt) used for access from the edge of a County Roadway to the Public Right-of-Way, Public Easement, or property line.

(m) "Fencing" means a private barrier or upright structure completely or partially enclosing an area of ground that is intended to mark a boundary and/or prevent pedestrian or vehicular access.

(n) "Frontage" means the portion of the Public Right-of-Way or Public Easement lying between the two most distant possible lines drawn perpendicularly from the edge of pavement of the road to the Applicant's abutting property line. In the event that two or more adjoining Applicants agree to combine their property Frontage for a combined access facility, as authorized under the applicable regulations, the Frontage will then be the portion of the Public Right-of-Way lying between the two most distant possible lines of the combined Frontage drawn perpendicularly from the edge of pavement of the road to the Applicants' abutting property lines.

(o) "Inspection Notice" means the document given to the Applicant after inspection by the County Engineer or his authorized agent determines that the Private Improvement is non-compliant with this Order. The Inspection Notice will state the matter of non-compliance with this Order.

(p) "Irrigation" means the equipment utilized to artificially apply water to facilitate vegetative growth. Equipment includes, but is not limited to, spray heads, pipes, control wiring and drip irrigation tubing.

(q) "Permit to Construct" means the document given to the Applicant that allows the Applicant to start constructing

his Private Improvements within the Public Right-of-Way.

(r) "Person" means any individual, corporation, partnership, limited partnership, joint venture or other legal entity.

(s) "PIPROW Permit" means the document given to the Applicant after inspection by the County Engineer or his authorized agent stating that the Private Improvement is compliant with this Order. A PIPROW Permit serves as proof that the Applicant's Private Improvement within the Public Right-of-Way is permitted. The PIPROW Permit shall be transferred to the current owner of the property for which the proposed Private Improvement serves.

(t) "Private Improvement" means any excavation, embankment, fill, vegetation, structure or object which is constructed on, placed in, added to, or removed from the Public Right-of-Way, including, but not limited to, driveways, pebbles or rocks, sidewalks, culverts, and earthwork.

(u) "Radius" means the curved portion of the Driveway that allows vehicles to comfortably traverse from the Roadway within the Public Right-of-Way to the privately constructed Driveway.

(v) "Roadway" means the portion of improved surface of the County or Public Easement or Public Right-of-Way used for travel by vehicular traffic which is usually constructed of concrete, asphalt, gravel, shell or other material providing a hard surface. The terms Roadway, County Road and road are interchangeable.

(w) "Satisfactory Quality" means quality that a reasonable person would regard as satisfactory. In determining whether materials are of Satisfactory Quality, one should consider whether the materials are fit for the purposes it is being supplied, compliant with the standard commonly used in the industry, free from defects, safe and durable. For the purposes of this Title, Satisfactory Quality shall be determined by the Comal County Engineer or his authorized agent.

(x) "Sidewalk" means an improved surface used for pedestrian traffic within the Public Right-of-Way or Public Easement.

(y) "Start of Construction" means the commencement of any Private Improvement within the Public Right-of-Way or Public Easement.

**42.002. Instructions for Securing a Private Improvement within Public Right-of-Way Permit**

To secure a Private Improvement within Public Right-of-Way (PIPROW) Permit, the Applicant shall begin by filling out and submitting a Permit to Construct Application to the Comal County Engineer's Office along with a processing fee. The application will include the Applicant's name, address and telephone number, and the Applicant's signature agreeing to comply with the terms and conditions of the Permit to Construct. Once the PIPROW Permit to Construct Application has been received by the County, the Applicant must contact the CCEO to arrange to meet with the CCEO at the location of the proposed Private Improvement, at which time details of the PIPROW Permit to Construct Application will be finalized. During the meeting, the Permit to Construct Application will be completed with a brief description of the proposed work. After the field meeting, the County Engineer shall process the Permit to Construct Application. The Permit to Construct will not be issued until the County Engineer or his authorized agent affixes his signature to the Permit to Construct. Start of construction of the PIPROW shall not commence until the Permit to Construct has been issued by the County Engineer.

**42.003. Fees**

Before a PIPROW Permit to Construct can be approved, the Applicant must pay a processing fee as set by the Commissioners Court for a Permit to Construct Application.

**42.004. Index to Regulations**

(a) Applications. Applications for PIPROW Permits shall be made by the Applicant. Such Permits shall be only for the purpose of placing Private Improvements within the Public Right-of-Way, and shall not create an obstruction, hazard, nor cause an adverse impact to the defined drainage patterns within the Public Right-of-Way. Furthermore, the Private Improvement shall only be used for lawful purposes.

(b) Reservations. The Comal County Engineer reserves the right to refer certain cases to the Comal County Commissioners Court for guidance on the issuance of a PIPROW Permit to Construct.

(c) Materials. The Applicant shall furnish all materials necessary for the construction of the improvements authorized by the Permit to Construct. All materials shall be of Satisfactory Quality and shall be subject to inspection and approval of the County Engineer or his authorized agent.

(d) Construction and Reconstruction. The Applicant shall construct all Private Improvements in conformance with this Title.

(e) Applicant shall notify the County Engineer when all permitted work is completed by the Applicant.

(f) Within five (5) working days of receiving the notice of completion, the County shall inspect the Permitted Area to ascertain proper compliance with the terms of the Permit to Construct. The County Engineer or his authorized agent reserves the right to inspect these Private Improvements at the time of construction and at all times thereafter, and to require such changes, maintenance, and repairs as may at any time be considered necessary to provide protection of life and property on or adjacent to the road. The County reserves the right to remove any installation that does not comply with this Title and assess charges incurred against the Applicant.

(g) Upon inspection, the County Engineer or his authorized agent will issue a written Inspection Notice to notify Applicant of the manner of non-compliance, or a PIPROW Permit to notify the Applicant that the Private Improvement is compliant with this Order and permitted.

(h) Within a reasonable amount of time, but no longer than five (5) working days, of receiving the Inspection Notice from the County, Applicant shall remedy or correct any and all non-compliant work as specified in the Inspection Notice.

(i) If Applicant fails to comply with the conditions of the Inspection Notice, Applicant shall reimburse the County for any and all damages and costs (including but not limited to materials, labor, equipment, and overhead) the County incurs in bringing the Permitted Area into compliance.

(j) If Applicant defaults on the terms and conditions of the Permit, Applicant shall be liable for all damages incurred by the County arising from the Applicant's default, as well as attorney fees and all costs and fees arising out of suit to enforce the terms and conditions of this Permit.

(k) All documentation associated with the PIPROW permitting process will only be made available to the Applicant on the County Engineer's Office website at www.cceo.org unless requested otherwise.

(l) Maintenance. Maintenance of improvements constructed hereunder shall be the responsibility of the Applicant, and the County reserves the right to require any changes, maintenance, removals or repairs as may be necessary to provide protection of life or property on or adjacent to the County Road. Also, the County reserves the right to remove any installation that does not comply with this Title. The cost of maintenance and repairs of Private Improvements within the Public Right-of-Way shall be the responsibility of the Applicant. Maintenance of permitted improvements does not require a new PIPROW Permit to Construct.

(m) Upon completion of the project, all equipment, construction material, surplus materials, trash, broken concrete, lumber, etc. shall be removed from the construction site.

(n) Changes in Design. No Private Improvements in the Public Right-of-Way shall be relocated, its dimensions altered, or a change in surface without a duly executed PIPROW Permit from the County Engineer's Office. Applicant may only make changes in design through issuance of a new PIPROW Permit by the County.

(o) Applicant expressly recognizes that the issuance of a PIPROW Permit by the County does not grant any right, claim, title, or Public Easement in or upon the County Road or its appurtenances. In the future, should the County, for any reason, need to work, improve, relocate, widen, increase, add to, decrease, or in any manner change the structure of the road or Public Right-of-Way, the permitted improvement, if affected, will be moved, or relocated at the complete expense of the Applicant.

(p) Fencing will not be permitted within the Public Right-of-Way.

(q) Private Improvements located in the Clear Zone must have a mountable slope or have an AASHTO approved breakaway support mechanism.

(r) Irrigation shall only be permitted in a curbed roadway section behind the back of curb.

(s) Indemnification. The Applicant shall indemnify and hold harmless the County and its duly appointed officers, agents and employees for all suits, actions, losses, damages, claims, or liability of any character, type, or description, including without limiting the generality of the foregoing all expenses of litigation, court costs, and attorney's fees for injury or death to any Person, or injury to any property, received or sustained by any Person or Persons or property, arising out of, or occasioned by, the acts of the Applicant, Applicant's officers, agents or employees in the execution of this Permit to Construct.

(t) Any Private Improvement in the Public Right-of-Way that does not comply with this order may be subject to removal by Comal County with or without warning.

(u) Grandfathering. Private Improvements constructed in the Public Right-of-Way without obtaining a PIPROW Permit may remain in place if the following conditions are met:

(1) The Private Improvement was constructed prior to the date this Order was executed;

(2) The Private Improvement is not creating a safety hazard; and

(3) The Private Improvement is not causing an obstruction to the established drainage path.

**42.005. Driveway Design**

A summary of the design requirements for access Driveways can be found in the attached "Driveway Detail Standard" which is incorporated by reference. A summary of these design requirements follows:

(a) All parts of entrances and exits on County Road Public Right-of-Way, including the radii, should be confined within the Applicant's property Frontage.

(b) Locations of access Driveway shall be selected to provide maximum safety for highway traffic and for users of the Driveway. If necessary, the County Engineer's Office may require the Applicant to submit a sight distance study and/or a drainage study for the desired location of an access Driveway. The sight distance study and/or drainage study shall be prepared by a registered professional engineer.

(c) Radii for all access Driveways shall be no less than six (6) feet.

(d) The end treatment for a Culvert shall be 3:1.

(e) Drainage in Roadway side ditches and on the Roadway shall not be altered or impeded. When drainage structures are required, size of opening and other design features shall be approved by the County Engineer or his authorized agent.

(f) The Applicant shall assume full responsibility for notification, coordination and relocation of utility facilities impacted by the proposed access.

(g) Applicant shall assume full responsibility for the construction and maintenance of an approved storm water Culvert of size and design conforming to the Comal County standards for the construction of streets and drainage in subdivisions.

(h) Applicant must comply with requirements listed above as well as requirements shown on the "Driveway Detail Standard."

(i) The design approved by the County Engineer, or his authorized agent, is based on field observations made during the meeting referenced in 42.002 and not based on engineering principles. Therefore, this driveway cannot be relied upon to provide adequate hydraulic capacity or conveyance.

**42.006 Improvement Design**

(a) All aspects of a proposed improvement should be confined within the Applicant's property Frontage.

(b) Locations of improvements shall be selected to provide maximum safety for highway traffic and for users of the improvement. If necessary, the CCEO may require the Applicant to submit a sight distance study and/or drainage study for the desired improvement. The sight distance study and/or drainage study shall be prepared by a registered professional engineer.

(c) Drainage in Roadway side ditches and on the Roadway shall not be altered or impeded.

(d) The Applicant shall assume full responsibility for notification, coordination, and relocation of utility facilities impacted by the proposed access.

(e) Applicant shall assume full responsibility for construction and maintenance of the proposed improvement.

**42.007 Mailboxes**

The regulations under Title 4 do not apply to the construction or placement of mailboxes. However, the property owners are required to ensure compliance of their mailboxes as to any and all local, state and federal regulations.

## CHAPTER 43. UTILITIES WITHIN THE PUBLIC RIGHT-OF-WAY

### 43.001. Definitions

Any and all Definitions under Chapter 42 are hereby incorporated into this Chapter, in addition to the definitions listed below.

(a) "Backfill" means filled in such a manner that the compacted density is equal to or greater than that of the surrounding undisturbed soil.

(b) "Bar Ditch Lines" mean the flow line of the ditches that run parallel to a County maintained road.

(c) "Casing" means a secondary pipe (minimum of schedule 40) that encases the utility line for the purpose of protection.

(d) "Opened" means cut, dug out, trenched, bored, jacked or in any other condition which is potentially unsafe for vehicular use.

(e) "Permitted Area" means the portion of the road or Public Right-of-Way in which a Utility Road Permit has been approved and outlined through the issuance of a Utility Road Permit.

(f) "Properly Compacted" means the Backfill shall be placed in uniform layers not to exceed ten (10) inches in depth (un-compacted measurement), and each layer shall be compacted to not less than ninety-five percent (95%) of maximum density at optimum moisture content. Dry Backfill material shall be wetted uniformly and shall be compacted by means of mechanical rammers, except that the use of compaction equipment of the type generally used in compacted embankments will be permitted on those portions that are accessible to such equipment.

(g) "Roadway Surface" means the top layer of the Roadway, typically asphalt or gravel.

(h) "Suitable Base Material" means aggregates, such as sand, gravel, crushed stone, slag, or flowable backfill (TxDOT Specification Item 401). Caliche is not a Suitable Base Material. Base Material shall be free from all objectionable and foreign objects.

(i) "Utility Improvement" means any pipeline, main, conduit, cable, utility line, pole line, sewer line, water line, outfall pipe, or any other structure other than a Culvert as defined in Chapter 42. Utility Improvements shall not include any improvement that permanently affects, impacts, or alters the Roadway Surface (i.e., railroad crossings, bridges, golf paths). Any such improvement that affects, impacts, or alters the Roadway Surface shall be handled by the County on a case-by-case determination.

(j) "UR Permit" means the document given to the Applicant after inspection by the County Engineer or his authorized agent stating that the Utility Improvement is compliant with this Order. A UR Permit serves as proof that the Applicant's Utility Improvement within the Public Right-of-Way is permitted. The UR Permit shall be transferred to the current owner of the property for which the proposed Private Improvement serves.

(k) "Vegetative Clearing" means any clearing of trees, shrubs, bushes, etc. necessary to support the placement or relocation of a Utility Improvement within the Public Right-of-Way. It is the responsibility of the Applicant to dispose of any vegetative clearing generated in the placement or relocation of a Utility Improvement.

**43.002. Instructions for Securing a Utility Road Permit**

A UR Permit shall be required for Utility Improvements crossing a County Road, parallel to a County Road or in the Public Right-of-Way. To secure a Utility Road (UR) Permit, the Applicant shall submit a Permit to Construct Application to the Comal County Engineer's Office along with a processing fee. The application will include the Applicant's name, address and telephone number, and the Applicant's signature agreeing to comply with the terms and conditions of the Permit. Once the UR Permit Application has been received, the Applicant will contact the County Engineer or his authorized agent to arrange to meet with the County Engineer or his authorized agent at the location of the proposed UR, at which time details of the UR Permit will be finalized. The Permit to Construct will not be issued until the County Engineer or his authorized agent affixes his signature to the Permit to Construct. Start of construction of the Utility Improvement shall not commence until the Permit to Construct has been issued by the County Engineer.

**43.003. Fees**

Fees for a Utility Road Permit shall be paid in accordance with the fees established by the Commissioners Court.

**43.004. Road Crossing Conditions**

(a) Applicant shall lay all Utility Improvements at least twenty-four (24) inches below the Bar Ditch Lines or Roadway Surface.

(b) Applicant shall place all Utility Improvements, crossing under the road, in Casing.

(c) Applicant shall Backfill and stabilize, within forty-eight (48) hours of completing the permitted activity, all trenches, holes and cuts with a Suitable Base Material and asphalt surface, when applicable, with each material being Properly Compacted.

(d) Applicant shall place barricades, to protect the public, and notify Comal County Engineer's Office at the time the Permitted Area is opened. Applicant will furnish and maintain all required traffic control devices, including flagmen, when necessary, as directed by the Texas Manual on Uniform Traffic Control Devices ("MUTCD"), to properly warn, guide, and control traffic thru or around the construction area at all times during construction.

(e)Applicant shall not open more than one-half of the Roadway at a time, in order to maintain the flow of traffic at all times. However, in an emergency, or with the permission of the County Engineer, or his authorized agent, the total width of the Roadway may be Opened, provided proper traffic control devices are utilized according to the Texas MUTCD for the health, safety and welfare of the public.

(f) Upon completion of the project, all equipment, construction material, surplus materials, trash, broken concrete, lumber, etc. shall be removed from the construction site. The entire construction site shall be graded and cleaned to present the appearance as it was prior to construction, or better.

(g) Applicant shall notify the County Engineer, or his authorized agent, in writing (see Chapter 44.003), when all work is completed.

(h) Within five (5) working days of receiving the notice of completion, the County will inspect the Permitted Area to ascertain proper compliance with the terms of this Permit.

(i) Upon inspection, the County will issue a written Inspection Notice to notify the Applicant of the manner of non-compliance or a UR Permit to notify the Applicant that the Utility Improvement is compliant with this Order and permitted. The UR Permit will be posted on the County Engineer's Office website at www.cceo.org.

(j) A summary of the design requirements for Utility Road Permits can be found in the attachment "Typical Utility Road Crossing Cross Section" which is incorporated by reference.

(k) Within a reasonable amount of time, but no longer than five (5) working days, of receiving the Inspection Notice from the County, Applicant shall remedy or correct any and all non-compliant work as specified in the Inspection Notice.

(l) If Applicant fails to comply with the conditions of the Inspection Notice, Applicant shall reimburse the County for

any and all damages and costs (including but not limited to materials, labor, equipment, and overhead) the County incurs in fixing the Permitted Area to the County's standards.

(m) If Applicant defaults on the terms and conditions of the UR Permit, Applicant shall be liable for all damages incurred by the County arising from the Applicant's default, as well as attorney fees and all costs and fees arising out of suit to enforce the terms and conditions of this Permit.

(n) The Applicant shall indemnify and hold harmless the County and its duly appointed officers, agents and employees for all suits, actions, losses, damages, claims, or liability of any character, type, or description, including without limiting the generality of the foregoing all expenses of litigation, court costs, and attorney's fees for injury or death to any Person, or injury to any property, received or sustained by any Person or Persons or property, arising out of, or occasioned by, the acts of the Applicant, Applicant's officers, agents or employees in the execution of this Permit.

## CHAPTER 44. GENERAL INFORMATION

### 44.001. Definitions

Any and all definitions in Chapters 42 and 43 are hereby incorporated into this Chapter, in addition to the definitions listed below.

(a) "Criminal District Attorney" means the Criminal District Attorney of Comal County, Texas, or any employee authorized by said Criminal District Attorney to act on his behalf.

(b) "Variance" means any variation, exception, or change in the manner that any provision in this Title is enforce or applied to a particular circumstance.

### 44.002. Enforcement

If any Person violates any provision of these Regulations, the County Engineer will attempt to obtain compliance with this Title. In the event the County Engineer is unable to obtain compliance, the County Engineer may pursue any of the following remedies:

(a) Report to the Commissioners Court and the Court may pursue Civil Remedies:

(1) If any Person engages in the construction or repair of a Private Improvement within the Public Right-of-Way or utility crossing a County Road, Public Easement or Public Right-of-Way without a Permit, the Commissioners Court may request that the Criminal District Attorney to file suit to enjoin the violation of this Title.

(2) If any Person engages in the construction or repair of a Private Improvement within the Public Right-of-Way or utility crossing a County Road, Public Easement or Public Right-of-Way in any manner except as specified in the Permit issued therefore by the County Engineer, the Commissioners Court may request that the Criminal District Attorney to file suit to enjoin the violation of this Title.

(3) If any Person engages in the construction or repair of a Private Improvement within the Public Right-of-Way or utility crossing a County Road, Public Easement or Public Right-of-Way without a Permit, or if any Person engages in the construction or repair of a Private Improvement within the Public Right-of-Way or utility crossing a County Road, Public Easement or Public Right-of-Way in any manner except as specified in the Permit issued therefore by the County Engineer, the Commissioners Court may order the Applicant to remove or bring into compliance the Private Improvement within the Public Right-of-Way or utility crossing a County Road, Public Easement or Public Right-of-Way at the Applicant's expense.

(b) Report to the Commissioners Court and the Court may pursue Contempt Proceedings:

(1) Any Applicant under this Title must certify to Commissioners Court that the terms, provisions and conditions of the Permit will be complied with. Violation of this certification constitutes contempt of Commissioners Court.

(2) If the Commissioners Court finds a Person to be guilty of contempt it may enter such orders consistent with general law as it deems appropriate to punish the Person guilty of contempt, and may enter such order and further orders enforceable by civil and criminal contempt, and consistent with its authority under general law, as Commissioners Court deems necessary to enforce and protect its jurisdictions over the matter and to uphold the integrity of this Title.

(3) The procedure for contempt proceedings before Commissioners Court will be consistent with procedures in actions before other courts in this state for enforcement of court orders, and for the protection of the jurisdiction of courts by process of contempt. Provided, however, that the Person shall be given ten (10) calendar days notice of said contempt proceedings.

(4) The Commissioners Court shall punish contempt by fine not to exceed twenty-five dollars ($25) or by

imprisonment not to exceed twenty-four (24) hours, and in case of fine, the Applicant may be held in custody until the fine is paid, as set forth in Texas Local Government Code §81.023.

**44.003. Notices**

Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally, or three (3) working days after the date of mailing if mailed, by first class mail, registered or certified, postage prepaid and addressed as follows:

Comal County Engineer's Office
195 David Jonas Drive
New Braunfels, TX 78132

Written notices may also be faxed to the County Engineer's Office at (830) 608-2009.

**44.004. Appeal**

An appeal for denial of a Permit will be considered on the following basis and only after good and sufficient cause has been demonstrated by the Applicant for an appeal:

(a) Upon denial of a Permit to Construct, the Applicant may appeal the County Engineer's decision by stating and submitting his reasons in writing to the County Engineer and within ten (10) working days of the denial of said Permit.

(b) The County Engineer shall review the appeal and within fifteen (15) working days of receipt of the said appeal, shall reduce his findings to writing and submit his findings and recommendation to Commissioners Court. The Applicant shall be provided with a copy of the County Engineer's recommendations and may appear before Commissioners Court to support his appeal.

**44.005. Variance Request**

Any and all requests for Variance from this Title must be approved by the Commissioners Court.

(a) The Applicant may request a variance by stating and submitting his reasons, in writing, to the County Engineer.

(b) The County Engineer shall review the variance and shall reduce his findings to writing and submit his findings and recommendation to Commissioners Court. The Applicant shall be provided with a copy of the County Engineer's recommendations and may appear before Commissioners Court to support his variance.

**44.006. Termination Date**

Permits issued under chapters 42 and 43 authorize construction for one hundred and eighty (180) calendar days. If work is not completed and approved within the one hundred and eighty (180) calendar day time period, Applicant shall be required to apply for a new Permit. If Applicant renews Permit prior to the expiration of the one hundred and eighty (180) calendar days, no new fees will be assessed. If the Permit expires, an Applicant shall apply for a new permit.

**44.007. Records**

All applications and file copies of Permits issued pursuant to this Title shall be maintained by the County Engineer as part of the records of his office. Disposition of such records will be in accordance with the Standard Operating Procedures of the County Engineer's Office.

**44.008. Disclaimer of Warranties**

**COMAL COUNTY HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.**

In no way does Comal County's issuance of a Permit, under this Title, constitute an endorsement or warranty of the Applicant or the quality of the Applicant, Applicant's officer, agent or employee's workmanship.

**44.009. Indemnification**

The Applicant shall indemnify and hold harmless the County of Comal and its duly appointed officers, agents and employees for all suits, actions, losses, damages, claims, or liability of any character, type, or description, including without limiting the generality of the foregoing all expenses of litigation, court costs, and attorney's fees for injury or death to any Person, or injury to any property, received or sustained by any Person or Persons or property, arising out of, or occasioned by, the acts of the Applicant, Applicant's officers, agents or employees in the execution of this Permit.

**44.010. Release of Liability**

Comal County, its officers, employees and agents will, at no time, be held liable for any damage or injury done to the property of the Applicant whether in contract or in tort, which may result from improving and/or maintaining County Road or Public Right-of-Way.

**44.011. Effective Date**

This Title shall become effective upon adoption by Commissioners Court and shall remain in full force and effect until amended or repealed by the Commissioners Court.

**44.0012. Severability**

The provisions of this Title are severable. If any word, phrase, clause, sentence, section, provision, or part of this Title should be held invalid or unconstitutional, it shall not affect the validity of the remaining provisions, and it is hereby declared to be the intent of the Commissioners Court that this Title would have been adopted as to the remaining portions, regardless of the invalidity of any part.

**44.013. Headings**

The headings of sections of this Title are for convenience of reference only and shall not affect in any manner any of the terms and conditions herein.

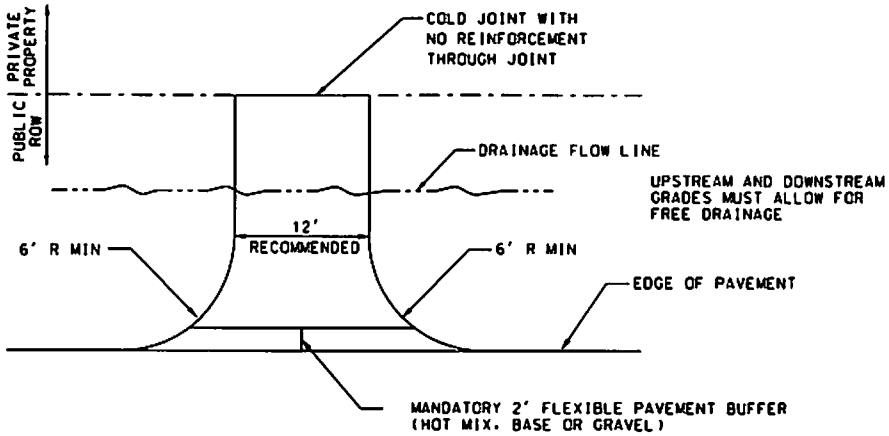
**44.014. Gender**

Whenever the context hereof shall so require the singular shall include the plural, the male gender shall include the female gender and the neuter, and vice versa.

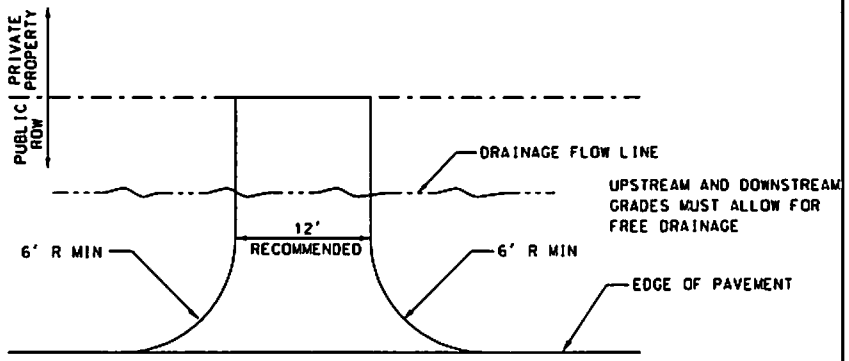
**44.015. Fees**

The fees for Permits and inspections shall be paid in accordance with the fee schedule adopted by Commissioners Court.

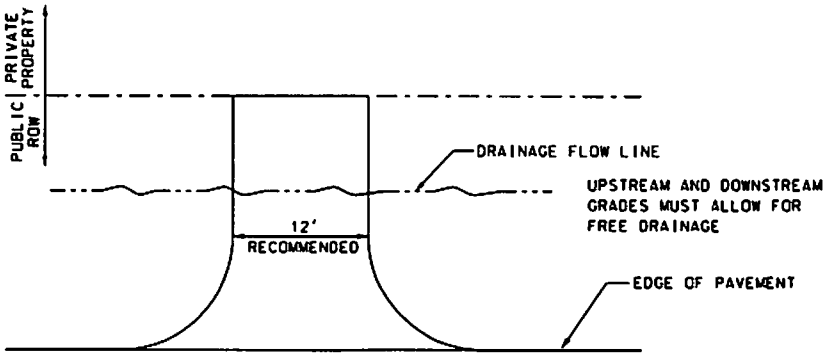
**CHAPTERS 45-50 RESERVED FOR EXPANSION**



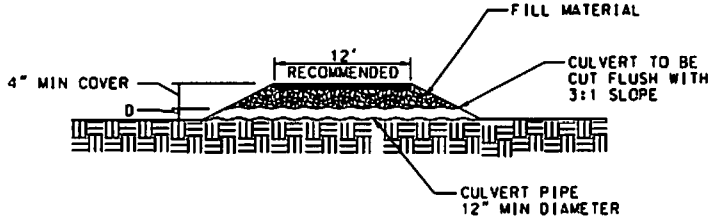

PLAN OF DRIVEWAY CONNECTION
CONCRETE




PLAN OF DRIVEWAY CONNECTION
ASPHALT




PLAN OF DRIVEWAY CONNECTION
DIRT OR BASE




DRIVEWAY WITH CULVERT
CROSS SECTION

NOTES:

DRAINAGE SHALL BE ADDRESSED BY ONE OF THREE OPTIONS:
1) DIP
2) CONSTANT SLOPE
3) CULVERT

IT IS RECOMMENDED THAT A CULVERT TYPE DRIVEWAY BE USED ONLY WHEN EXTREME CONDITIONS PREVENT THE USE OF A DIP OR CONSTANT SLOPE FROM BEING FEASIBLE. CONSULT WITH COMAL COUNTY ENGINEER'S OFFICE FOR APPLICATION TO LOCAL CONDITIONS.

**NO OTHER IMPROVEMENTS THAT PROJECT ABOVE EXISTING GRADE SHALL BE ALLOWED WITHIN THE COUNTY RIGHT OF WAY.**

**WATER MUST FLOW FREELY THROUGH CULVERT PIPE OR OVER DIP TYPE DRIVEWAY.**

**IT IS RECOMMENDED THAT THE CONTRACTOR CONTACT THE COMAL COUNTY ENGINEER'S OFFICE FOR FOR A PRE-POUR INSPECTION PRIOR TO POURING CONCRETE OR PLACING HOT MIX ASPHALT.**

| POTENTIAL CONCRETE AND ASPHALT CONTRACTORS(*): | |
|---|---|
| SILVERADO CONSTRUCTION | (830) 639-4439 |
| GIBSON CONSULTING | (830) 822-4869 |
| BACKHOE BOB | (830) 935-3388 |
| JACK RYAN | (830) 899-3200 |
| C.B. PAVING | (830) 980-2880 |
| JCN CONSTRUCTION | (830) 228-5025 |
| PDO CONCRETE | (210) 521-7783 |

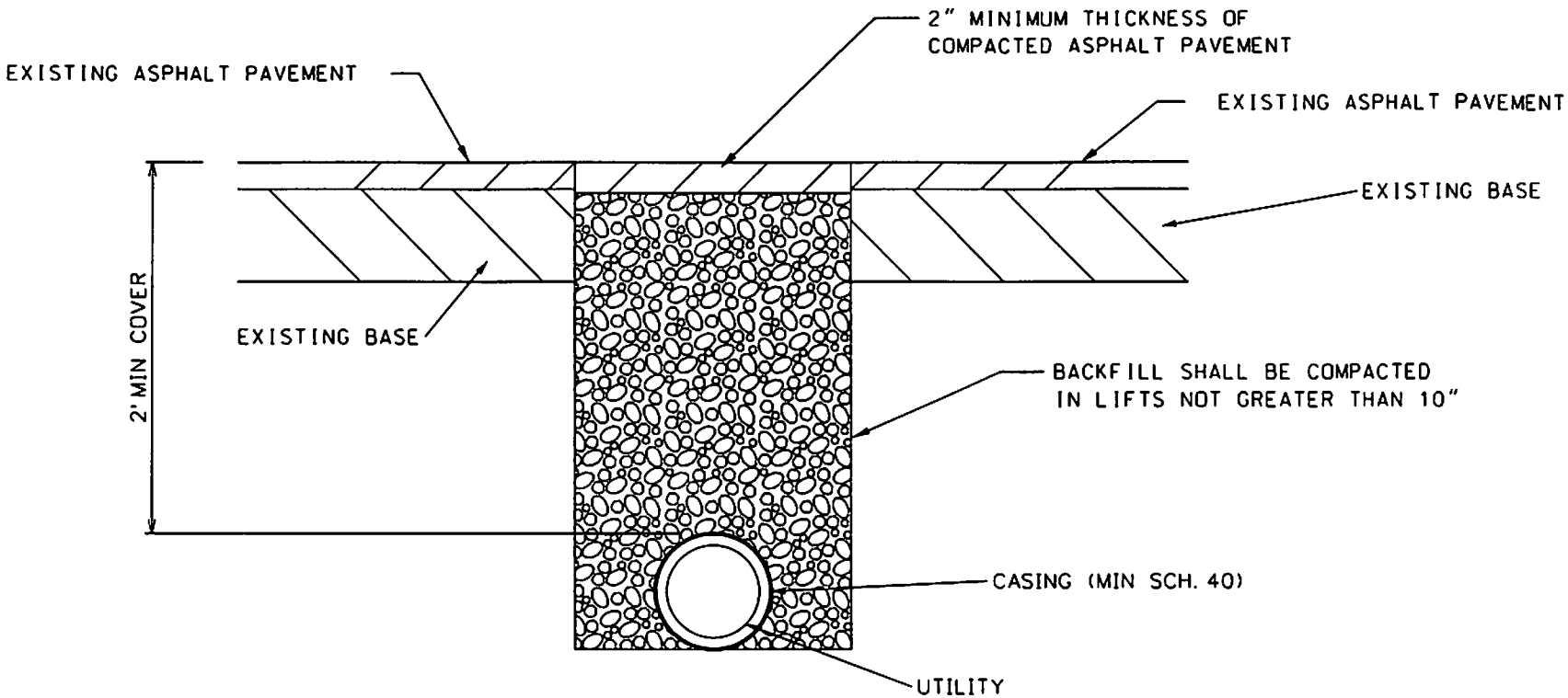
| POTENTIAL PIPE DISTRIBUTORS(*): | |
|---|---|
| TX CORRUGATORS | (210) 653-1600 |
| McCOYS | (830) 629-2111 |
| HOME DEPOT | (830) 625-3334 |
| EBERHARDT | (830) 625-4616 |

(*) THESE CONTRACTORS VOLUNTAIRLY SUPPLIED THEIR NAMES TO COMAL COUNTY. THEY ARE LISTED IN NO PARTICULAR ORDER. THE COUNTY IS NOT RECOMMENDING THESE PARTICULAR CONTRACTORS. IT IS SIMPLY PROVIDING A LIST OF CONTRACTORS TO HELP WITH THE FACILITATION OF DRIVEWAY CONSTRUCTION.


**Comal County Road Department**
195 David Jonas Drive
New Braunfels, TX 78132
Phone: (830) 608-2090
Fax: (830) 608-2009


**DRIVEWAY DETAIL STANDARD**

| Date: 08/11/03 | REVISIONS | | SCALE: NTS |
|---|---|---|---|
| | No. | Date: | |
| Drawn by: RHB | 1. | 06/08/09 | |
| Checked by: THH | | | Sheet 1 of 1 |




BACKFILL MATERIAL SHALL BE SUITABLE BASE MATERIAL SUCH AS SAND, GRAVEL, CRUSHED STONE OR SLAG, OR FLOWABLE BACKFILL (TxDOT SPEC ITEM 401).

CALICHE OR EXISTING MATERIAL SHALL NOT BE USED TO BACKFILL THE UTILITY EXCAVATION.

BACKFILL SHALL BE WETTED TO OPTIMUM MOISTURE AND COMPACTED TO NO LESS THAN 95% OF MAXIMUM DENSITY.

NOTE:
THIS TYPICAL ROAD CROSSING CROSS SECTION SHOWS PART OF THE REQUIREMENTS OF CHAPTER 43 IN TITLE 4. THIS DRAWING DOES NOT SUPERSEDE OR REMOVE ANY REQUIREMENTS OF TITLE 4.

**Comal County**
**Road Department**
195 David Jonas Drive
New Braunfels, TX 78132
Phone: (830) 608-2090
Fax: (830) 608-2009

**TYPICAL UTILITY ROAD CROSSING CROSS SECTION**

Date: 08/25/03
Drawn by: RHB
Checked by: SDW

| REVISIONS | |
|---|---|
| No. | Date: |
| 1 | 01/06/10 |
| 2 | 10/10/12 |

SCALE: N.T.S.

Sheet 1 of 1