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County Government and Water Quality A Few Examples: January 2006

Passive or technical, incentive or rule: geography, geology, urban character, philosophy, political climate, funding and staffing affect approach. Two counties in the region have enacted SB 873-based subdivision orders in this area: Medina and Travis. Others have adopted less sweeping measures that affect water quality.

- Medina
 - Minimum lot size tied to
 - Geologic zone
 - Source of water (public or private well)
 - Type of disposal (collective sewer or septic)
 - Lot averaging to promote clusters
 - Average min. size ranges from ½ acre in eastern county, with water and sewer in place, to 5 acres over recharge
 - Density incentives for protection of conservation areas
 - 100-year floodplain
 - Stream corridors
 - Critical Environmental Features
 - Open space
 - Parks
 - BMPs

- Travis
 - Construction “best practices”
 - Control post-development pollutant loads
 - Standards based on Western or Eastern Watersheds
 - In west, stricter standards for steeper slopes, up to 90 percent of suspended solids and 85 percent phosphorous/oils (SF assumed to meet if min. 1 acre lot with streets using vegetative buffer controls
 - In east, sedimentation/filtration or equivalent if impervious cover is above 20 percent (net)
 - Cut and fill limitations
 - Minimize streambank erosion
 - Buffer zones on waterways, restricting development in floodplain and/or within minimum setbacks from streams and lake; also limits street crossings
 - Buffer of 150-300 feet from edge of recharge features, depending on topographic catchment basin
 - Other buffers for wetlands, springs, caves, canyon rimrocks and bluffs



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Minimum lot size requirements, to address water quality, rural character, or water quantity, are set above the minimum in a growing number of counties. A few examples:

- Hays, among first to adopt aggressive rules in 1990s, using On Site order
 - Variable lot sizes based on geology, recharge, source of water, and method of waste water disposal
 - Averaging and “innovative” alternatives allowed
 - Incentives for rainwater collection
 - Minimum averages range from zero, with surface water and public sewer, to 5 acres on recharge with conventional septic
 - Incentives for large-acre, “rural” subdivisions, and allows narrow, rustic roads in certain circumstances
 - County is undertaking an “Update” of rules to consider recommendations from the Regional Water Quality Protection Plan
 - Plan recommends TDRs (Transfer Development Rights)
 - Impervious cover regulations
 - Stricter construction management practices
- Kerr County, in process of adopting new rules (proposals now on table)
 - Minimum lot size based on water availability
 - Direct development toward 5-acre minimums for lots with individual wells, with assumption that lots meeting guideline have shown water availability and can forgo engineering
 - Designate areas in ETJs and around existing communities for higher-density allowances
 - Averaging, at least in certain areas, if hooked to water supply system
 - Commissioner Lutz taking lead
- Bastrop County, Lost Pines Habitat Conservation Plan
 - Voluntary guidelines to allow developments authorization for “incidental take” of endangered species (Houston toad)
 - Designed to protect breeding grounds of ephemeral ponds, drainage areas, and other habitat
 - For SF, 5-acre minimum average, with 3-acre hard minimum
 - For multi-family and high density residential, one unit per 2.5 acres
 - Majority of lot is set-aside as natural area
 - Lesser road widths and lengths, and permeable paving, encouraged
 - County worked with Loomis Austin, and USFWS
- Comal
 - 5.01-acre minimum for lots with private wells and on-site sewage
 - One-acre min. for lots with public water supply and on-site sewage



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- Garden/condominiums specifically allowed under certain circumstances (?)
- Bandera
 - 5-acre minimum for lots with wells and on-site sewage
 - 2-acre minimum if public water and on-site sewage
 - 1/2-acre if public water supply and public sewer
- Blanco
- Caldwell

Excerpt from Medina County matrix :

9.3 Minimum Average Lot Size. The average Lot size (area) of each subdivision shall be not less than the minimum average stated in the following table, based on the geological zone in which the subdivision is located and whether a public water system and collective sewer service are provided to every Lot:

Geological Zone	Minimum Average Lot Area	
	With Public Water and Sewer	Without Public Water and Sewer
Edwards BFZ Outcrop/Aquifer Recharge Zone, and Trinity Outcrop	5 Acres	5 Acres
Edwards BFZ Downdip/ (Confined Zone)	1.5 Acres	3 Acres
Other	1/2 Acre	1 Acre

Note: See the additional rules for Lots in this Article.

9.3.1 Calculation of Average. Average Lot Area shall be calculated as:

$$\frac{\text{Area of all Lots in Plat} + \text{Net Conservation Area}}{\text{Number of Lots in Plat}}$$

For purposes of calculating Average Lot Area:

“Area of all Lots in Plat” shall exclude Conservation Areas and the right-of-way of public streets and private streets.

“Net Conservation Area” shall not exceed “Area of all Lots in plat.” However, apart from Calculation of Average, these Rules impose no limit on the extent of Conservation Areas that may be created in a subdivision.



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“Number of Lots in Plat” shall not include any Lot, which is restricted to use as a Conservation Area per Section 9.4.

See illustrations in Appendix D.

9.3.2 Incentive to Create Conservation Areas. In order to encourage the protection of water quality, the reduction of water demand, and the preservation of open space, Medina County allows reductions in minimum average Lot size for subdivisions that create any of the different types of Conservation Areas identified in Section 9.3.3.

9.3.3 Net Conservation Area. Only the net area of a Conservation Area shall be included in the calculation of Average Lot Area. Net Conservation Area shall be determined by multiplying the acres within each type of Conservation Area by the corresponding percentage in the following table:

Type of Conservation Area	Net Conservation Area
100-year Floodplain	15%
Stream Corridor	40%
Critical Environmental Feature Setback *	100%
Open Space / Conservation Easement / Private Park	40%
Public Park	20%

* Edwards Outcrop and Trinity Outcrop only. See Sec. 9.8.5.

9.4 Conservation Areas.

9.4.1 Designated and Restricted. The boundary and type of each Conservation Area shall be shown on the plat. Plat notes and covenants, as acceptable to the Commissioners Court, shall state the purpose and restrictions on use of each Conservation Area.

9.4.2 Conservation Areas shall not overlap. No land area may be included in more than one Conservation Area. Each Conservation Area should comprise a Lot whose use is restricted by plat note or covenant to the purpose of the Conservation Area. Accordingly, no Conservation Area, except a critical environmental feature setback, shall be included in the calculation of Net Conservation Area if it is within a Lot that is not designated and restricted as a Conservation Area.

9.4.3 Ownership. Conservation Areas other than critical environmental feature setbacks shall be conveyed in fee to a property owner



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association concurrently with the recording of the plat, except that the Commissioners Court may approve another entity as grantee to own and manage a Conservation Area in accordance with the objective of the Conservation Area.

- 9.4.4 County Acceptance of Parks. Parkland may be dedicated by the plat to the County at the sole discretion of the Commissioners Court. In exercising its discretion, the Court may consider factors such as: a Medina County parks plan *(abbreviated this handout)*
- 9.4.5 Environmental Feature Setbacks. A critical environmental feature setback Conservation Area may be created in any subdivision but may be included in average lot area calculation only if located within the Edwards Aquifer Recharge Zone or the Trinity Outcrop. A critical environmental feature setback Conservation Area shall consist of a minimum 25-foot setback for construction or soil disturbance. A critical environmental feature lying outside of a 100-year floodplain shall be protected by an earth berm to divert runoff around the feature. A critical environmental feature shall be any Sensitive Feature as defined by the Texas Commission on Environmental Quality in 30 Texas Administrative Code §213.3.

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