



# Application for County Road Maintenance Through Implied Dedication

To be completed by developer or property owners requesting  
county road maintenance for roads and right of ways in  
subdivision developments

To:

## Smith County Road & Bridge Department

135 SSE Loop 323, Tyler, TX 75702;  
(903)-590-4801

From:

Name:  
Address:

Phone:

Name of Development:

Date:

Name of Developer (*if known*): \_\_\_\_\_

Date 2nd lot sold: (*by deed or contract, if known*): \_\_\_\_\_

Number of homes in Development: \_\_\_\_\_

Location of Development (*directions*): \_\_\_\_\_

Plat filed with Commissioners Court? \_\_\_\_\_ If so, when (year): \_\_\_\_\_

Plat filed with City? \_\_\_\_\_ If so, when (year): \_\_\_\_\_ What City? \_\_\_\_\_

Dedicated right of way? \_\_\_\_\_ If so, what width? \_\_\_\_\_ ft. Recorded? \_\_\_\_\_

If less than 60 ft wide, will owners dedicate a total of 60 ft.?

Road(s) built to County specs? \_\_\_\_\_ Road(s) built to City specs? \_\_\_\_\_

Distance to closest residence from the center of the road: \_\_\_\_\_ ft.

Attach any drawings/maps you may have of the development.

### **Notes:**

1. Acceptance of roads and right of ways into the County Road System does not obligate Smith County to upgrade road surfaces, routes, profiles, or curvature other than that required for normal maintenance. *The acceptance of right-of-way and roads in part or in whole must comply with the Smith County Subdivision Regulations, as amended.*
2. Road construction required to meet minimum County Subdivision Regulations shall be at the applicant(s) expense.
3. Dedication of a right-of-way will generally require an amended plat be filed.
4. Any surveying required of dedicated right-of-ways will be done at the applicant(s) expense.

Any exception to the above must be approved by the Commissioners Court.



# Application for County Road Maintenance Through Implied Dedication<sup>1</sup>

To be completed by property owners requesting county road maintenance for roads and right of ways in subdivision developments

(Whether in or out of any municipal extra-territorial jurisdiction)

## County Improvements Of Subdivision Roads

(This outline is based on Implied Dedication pursuant to the common law)

**Step 1:** Road(s) must be laid out and established according to law (Tex. Transp. Code § 251.002), including initial regulatory traffic signage (Texas Manual on Uniform Traffic Control Devices for Streets and Highways). Location of the road(s) must be in the unincorporated areas of the county.

**Step 2:** File and process application with Road & Bridge Department by obtaining letter of recommendation for approval into county maintenance system (may overlap step 3). This includes an inspection by Road & Bridge, which may determine that an amended plat or survey is necessary and/or list of improvements prior to granting the recommendation. Upon a determination that a *new* subdivision project has met the county's Subdivision Regulations, the Road & Bridge Department will issue a letter of recommendation for approval into the county maintenance system, which must be brought before the Commissioners Court under step 5.

**Step 3:** Designate road(s) as "public" either in a plat or through "public use" and a Commissioners Court finding by resolution that the road is "public" (the finding that a road is "public" does not itself place the road into the maintenance inventory but is a required step).<sup>2</sup> This step may overlap with step 5.

**Step 4:** Developer or property owners must obtain a two (2) year maintenance bond made payable to the county. Effective date for existing subdivisions must be on or before presentation to Commissioners Court, while the effective date for new subdivision projects will be the date of the recommendation letter from the Road & Bridge Department recommending approval.

**Step 5:** Road & Bridge submits agenda request for Commissioners Court. Developer and/or all property owners must attend court or sign necessary affidavit form to testify or attest to applicable facts, including the following: (a) that road is in "public use"; (b) "impliedly dedicated" or "offered" to the county; and (c) there is a need for county maintenance due to "public health, safety, and welfare" of county residents. The burden is on those offering the dedicated property to show a compelling reason why the road(s) cannot be privately maintained. If the Court so finds, a resolution will be entered into the minutes accepting the dedicated property pursuant to the terms and conditions established by the Court. **Attached affidavit form must be executed and submitted by applicant(s).**

**Step 6:** The *County shall maintain the road(s)* according to county road standards.

<sup>1</sup> With a population more than 50,000, Smith County is not subject to the limitations on smaller counties of Chapter 281 of the Transportation Code, which allows only express dedications. Implied dedications are allowed where there is "public road," there is an acceptance by public usage, and the Commissioners Court passes a resolution making certain findings. **See Op. Tex. Att'y Gen. No. JC-0503 (2002).**

<sup>2</sup> Once deemed "public," a road is generally eligible for county maintenance. **See Tex. Transp. Code § 251.003.** The road cannot be completely surrounded by private roads.