



# Platting 101: County Subdivision Regulation

By Donald Lee, 512-476-6174  
donlee@cuc.org

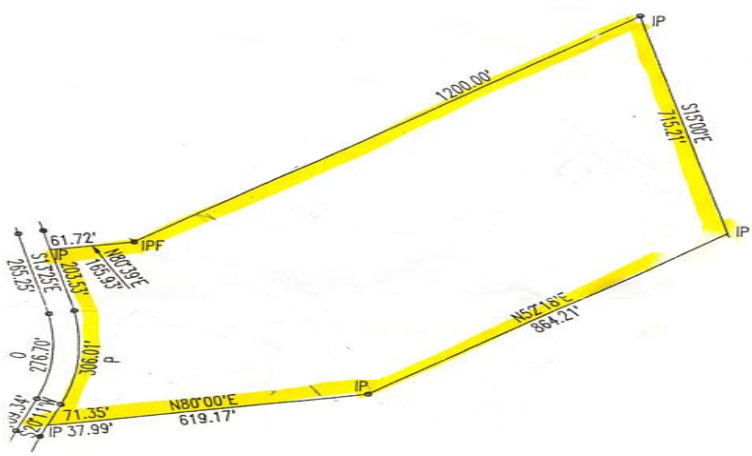
Executive Director  
Texas Conference of Urban Counties



## Chapter 232, Local Gov. Code


Statute controlling  
county subdivision regulation authority.



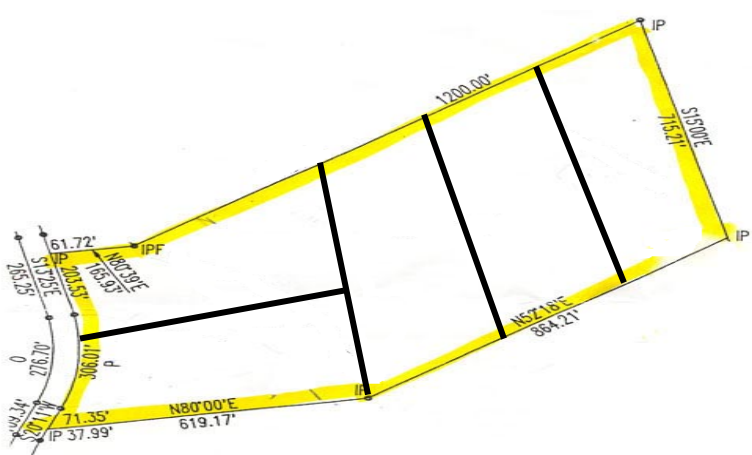


A survey diagram of a tract of land. The boundary is defined by several segments: a curved segment on the left with a radius of 375.00' and a central angle of 165.00', a segment of 61.72' bearing N87.95°E, a segment of 376.00' bearing N80°00'E, a segment of 619.17' bearing N80°00'E, a segment of 1200.00', and a segment of 1162.21' bearing S19.00°E. The vertices are labeled IP, IPF, and P. The diagram is highlighted in yellow.

A subdivision is dividing a tract of land into two or more tracts of land. It is the first step in developing raw land.


 TEXAS Conference of Urban Counties

County Subdivision Regulation 3



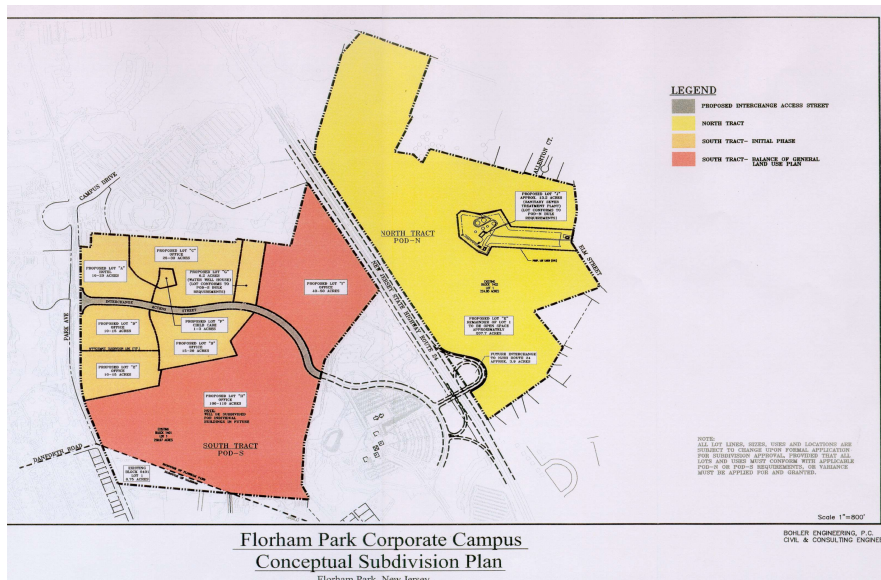
The same survey diagram as in slide 3, but with three internal black lines representing a subdivision of the tract into four smaller tracts.

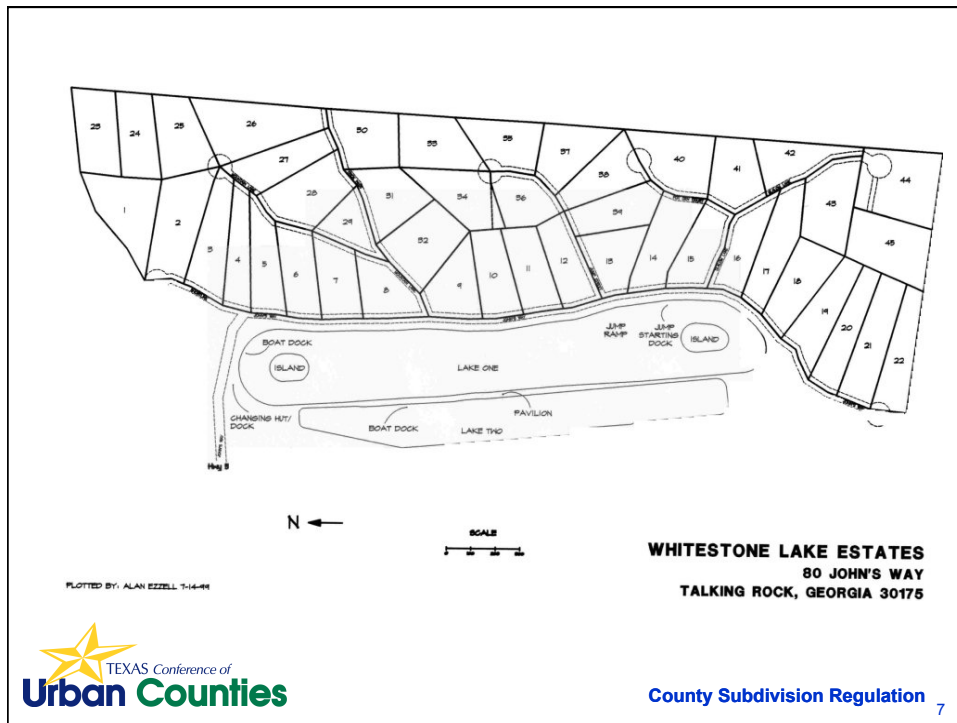
A subdivision is dividing a tract of land into two or more tracts of land. It is the first step in developing raw land.

 TEXAS Conference of Urban Counties

County Subdivision Regulation 4

Subdivisions are made by preparing a plat and filing it with the county clerk.





## Why are plats important?

- You can't convey a subpart of land unless that subpart is shown on a plat filed with the county clerk.

Property Code, 12.002(c)

- Criminal penalties if you sale land in violation of 12.002(c), and is prima facie evidence of an attempt to defraud.

Property Code, 12.002(f)

## What I want you to know

- You have 2 roles as policy maker and judge
- You have a mix of limited authority and broad authority
- Border counties and counties receiving EDAP grants must follow model rules created by the state
- You can get into trouble



## What is at Stake?

The Future of  
Your  
Communities



## Chapter 232 Local Government Code

A plat is required to be filed when land is divided into two or more parts to lay out a subdivision, roads or other tracts intended for use by the public or lot owners



## Plats Must Be Approved Before Being Filed

Plats that lay out residential lots or include roads or other tracts intended for public or shared use

- If property is within a city – then city approval required
- If property is outside a city – then county approval required
- If property is in a city's ETJ – then either the city, county or both



## Dual Role for Commissioners Court:

1. Judge when you review proposed plats
2. Policy maker when you write/amend your subdivision rules

The basic provisions for ***all*** counties are in Chapter 232, Subchapter A



## Role 1: Reviewing Plats

### Ministerial Duty

- If plat meets your published rules – you must approve
- If plat does not meet your published rules – you must deny
- Some counties will consider and grant variances from rules on a case-by-case basis
- If you deny a plat that meets your rules – landowner can appeal to district court



## Role 2: Writing Rules

Here you have discretion

- Decide what standards are important for your community
- Will roads be gravel or paved?
- Will fire hydrants be required?
- Gutters, ditches or storm sewers?



## What Can Go into Rules?

- Exemptions, platting fees
- Requirements for:
  - Road right-of-way;
  - Road construction;
  - Road drainage;
  - Statements of water availability to purchasers;
  - Drainage of the subdivision in general;
  - Performance bond, financial guarantee or letter of credit; and
  - Certification by an engineer of water availability





## Statutory Exemptions

All of these subdivisions are exempt if no roads, parks, easements, or public/shared tracts are in the subdivision:

- Land used for agriculture;
- Creation of 4 or less lots transferred to immediate family;
- All the new tracts are greater than 10 acres;
- Land owned by the state; and
- Land to be further subdivided



## 60-Days to Deny Filed Plats

- County must deny a plat timely or landowner can have district court declare it approved
- County must also rebate plat-filing fees
- County must provide list of documents necessary for a complete plat application
- County must reject for incompleteness within 10-days

232.0025



## Plat Application Fees

- Cover cost of plat review and construction inspection
- Based on any reasonable criteria i.e...
  - # of lots
  - # of acres
  - Type/extent of improvements

232.0021



County Subdivision Regulation 19

## Road Specs – Do Unto Others What You Do Unto Yourself

- County may not impose a higher construction standard on new subdivision roads than it imposes on itself for roads *“with a similar type and amount of traffic”*

232.0031

- Classify your roads, Establish specs for each class of road

*Counties don't build subdivision roads*



County Subdivision Regulation 20

## Plat Revisions:

- Landowners wishing to revise an existing plat apply in writing to commissioners court
- Provide notice of a hearing on revision in newspaper and by mail (to other owners in the subdivision)
- Approve if no damage to established rights of other owners, or all agree

232.009



County Subdivision Regulation 21

## Manufactured Housing Rental Communities

- Not a subdivision. Subdivision rules don't apply.
- But you can adopt rules for new MHRCs:
- Establish reasonable minimum infrastructure standards, including:
  - Drainage
  - Water supply/sanitary sewer
  - roads to ensure fire/EMS access
- Utility hook-ups blocked until compliance documented

232.007



County Subdivision Regulation 22

## Border Counties are Special



- Special provisions apply to counties within 50 miles of the border
- Subchapter B, Chapter 232, Local Gov. Code
- The “Colonias” law
- **The following applies to everyone else**



## Criminal Penalties on You! Conflict of Interest

A commissioner court member with a substantial interest in land being subdivided must file, before final action is taken, an affidavit stating the nature and extent of the interest with the county clerk – then refrain from further participation in the matter.

232.0048





## Conflict of Interest (2)

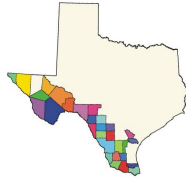
Substantial interest in land means:

- As an individual
  - \$2,500 or more of ownership interest, or
  - Acting as the developer;
- Owns 10% or \$5,000 worth of a company that meets the individual interest threshold;
- Receives income greater than 10% of annual income from a business that meets the individual income threshold; or
- Are closely related to anyone that meets any of the above criteria (1<sup>st</sup> degree)



## Conflict of Interest (3)

- Violation is a Class A misdemeanor
- Bottom Line: Any possible conflict, get a lawyer to look at it up front!



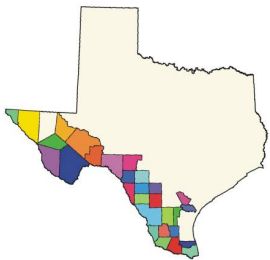
## Local Government Code 232 Subchapter B Applies to Border Counties

### ➤ Applies to:

- Counties within 50 miles of the border; or
- Counties located within 100 miles of the border that contain the majority of the area of a city with a population of more than 250,000



County Subdivision Regulation 27



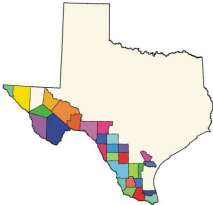
## When is a Plat Required in a Border County?

- Subdivisions creating 2 or more lots where at least one is for residential purposes
- Residential purpose presumed for lots < 5 acres
- Exempt when all lots are > 10 acres
- Exempt if subdivision is incident to a gift among family

Subchapter B, Chapter 232.022




County Subdivision Regulation 28

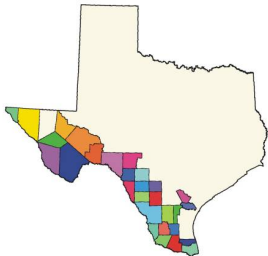


## Border Counties *Shall!*

- Adhere to significantly greater platting requirements
- Adopt and enforce model rules written by the Texas Water Development Board
  - Shall enforce road standards
  - Shall enforce extensive drainage provisions
  - Shall enforce Water/sewer facilities, electricity and gas provisions
    - Build it or Bond it on water and sewer
- Shall not weaken requirements of model rules  
Subchapter B, Chapter 232



County Subdivision Regulation 29




## Border Counties May...

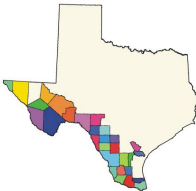
Establish a planning commission

- Acts on behalf of court in regard to subdivision regulations
- No additional authority
- Must act on plats under same time limits (60-days) as non-border counties

Subchapter D, Chapter 232




County Subdivision Regulation 30





## Violations are a Class B Misdemeanor

- A violation of the commissioners court platting and subdivision rules is a class B misdemeanor
- The court can request the county attorney or district attorney enforce the rules

232.005




County Subdivision Regulation 31

## Conflict of Interest Standard in Border Counties!

- Any interest in subdivided land!
- Any ownership or stock in a company with any interest in subdivided land, or acting as developer
- Receive anything of value from a company with any interest
- Extended family relationship(2<sup>nd</sup> degree) with someone with any interest
- Affidavit, abstention required
- Class A misdemeanor
  - Conviction constitutes official misconduct and is ground for removal from office

Subchapter B, Chapter 232.034 & 232.035



County Subdivision Regulation 32



## Economically Disadvantaged Areas Program

- Grant program run by the Texas Water Development Board
- Provides funds for water/sewer infrastructure in counties built without water/sewer service
- To get the grant you must agree to enforce the model rules required of border counties
  - Build it or Bond it



## Broad, Additional Authority Chapter 232, Subchapter E



Counties may adopt rules governing plats and subdivisions of land within the unincorporated area of the county *to promote the health, safety, morals, or general welfare* of the county and the safe, orderly, and healthful development of the unincorporated area of the county.

Examples:

- Dedication of park land
- Fire hydrants
- Street lights



## What Can Be Done With Subchapter E?



- Any regulation necessary to protect health, safety, welfare and morals
- Anything a city can do in their ETJ
- Grant of police power



## More Involved When Using Subchapter E



- County determines what it can do – based on facts.
- Constitutionality not presumed.
- Requires significantly more professional assistance: lawyers and engineers



## What has been done with Subchapter E



- Required Streetlights
- Required fire hydrants
- Required sufficient park land or funds to help county buy parkland



## Also in Subchapter E



- Require greater right-of-way, especially for MPA major thoroughfare plans
- Minimum lot frontages
- Establish lot set-back requirements
- Prohibit connection of utilities in unplatted subdivisions



## City ETJ Overlapping Regulations

- Cities have limited authority in areas surrounding the city
- Called Extraterritorial Jurisdiction
- Bigger the city – the bigger the ETJ
  - ½ mile for smallest cities to 5 miles for largest
- Cities have subdivision regulation authority in their ETJ – overlaps with county authority



## Chapter 242 Resolves Conflicts Between City and County Regulation

The most stringent subdivision regulation applies in:

- Border counties
- Counties receiving EDAP grants
- Harris county and other counties containing part of Houston



## All Other Counties

- Require the adoption of a 242 agreement



## Must Establish 1-Stop Shop for Platting in ETJ

- Cities and counties must reach local agreement, through a written contract, to provide 1-Stop shop for platting in ETJ

Chapter 242



## Agreement May Provide Either:

- Option 1: City regulates, county does not
- Option 2: County regulates, city does not
- Option 3: Split the ETJ up geographically
- Option 4: Both regulate, but provide single front to landowners

Chapter 242



County Subdivision Regulation 43

## Option 4 Must:

- Provide single office to file plats
- One (combined) plat application fee
- One response indicating approval or denial
- Provide one set of consolidated and consistent subdivision regulations

Chapter 242



County Subdivision Regulation 44

## If No Agreement is Reached Then Arbitration is Required

- If no agreement is reached, binding arbitration is required, with costs split by city and county
- Deadline: 120 days after incorporation of a municipality



## Other Related Authority:

- Populous counties can adopt fire-codes (>250,000 population)
- Certain counties have zoning
  - Lakes, South Padre Island
- OSSF – Septic Tanks
  - State regulated (TCEQ)
  - County can act as State Agent and adopt, enforce local rules
  - Often combine regulations with subdivision



## Important Points to Remember

- Dual roles: understand when you have discretion
- You have a mix of traditional authority and recently passed broad authority
- Border counties and counties receiving EDAP grants must follow model rules created by the state
- You can get into trouble



Donald Lee, Executive Director  
E: [DonLee@cuc.org](mailto:DonLee@cuc.org) | W: [www.cuc.org](http://www.cuc.org)  
O: 512.476.6174 | F: 512.476.5122  
500 W. 13th Street  
Austin, TX 78701