
SECTION 2 - GENERAL POLICY**2.1 Plat Required**

Authority for these regulations is given in V.T.C.A., Local Government Code § 232.001.

- A. The owner of a tract of land located outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to lay out:
 - 1. a subdivision of the tract, including an addition;
 - 2. lots;or
 - 3. streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.
- B. A division of a tract under (*Section 2, 2.1.A.*) includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.
- C. To be recorded, the plat must:
 - 1. describe the subdivision by metes and bounds;
 - 2. locate the subdivision with respect to an original corner of the original survey of which it is a part; and
 - 3. state the dimensions of the subdivision and of each lot, street, alleys, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street alley, square, park, or other part.
- D. The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds. Refer to (*Appendix A*).
- E. Commercial Development - Unless otherwise specifically exempted, a plat is always required when a parent tract is divided into two or more daughter tracts for sale as part of a unified plan for development of the property. The existence of such a plan may be inferred from circumstances, such as the form of advertising or the sale of multiple tracts within a one-year period.

2.2 Exceptions to Plat Requirement

Authority for these regulations is given in V.T.C.A., Local Government Code § 232.0015.

- A. The owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts is not required to have a plat of the subdivision prepared if:
 - 1. the owner does not lay out a part of the tract described by (*Section 2, 2.1 A.3.*) and;
 - 2. the land is to be used primarily for agricultural use, as defined by (*Section 1-d, Article VIII, Texas Constitution*), or for farm, ranch, wildlife management, or timber production use within the meaning of (*Section 1-d-1, Article VIII, Texas Constitution*).
 - 3. If a tract described by (*Section 2, 2.2, A.2.*) ceases to be used primarily for

- agricultural use or for farm, ranch, wildlife management, or timber production use, the platting requirements of this subchapter apply.
- B. The owner of a tract of land located outside the limits of a municipality who divides the tract into four or fewer parts and does not lay out a part of the tract described by (*Section, 2 2.1 A.3.*) is not required to have a plat of the subdivision prepared if each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under (*Chapter 573, Government Code*). If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the platting requirements of this subchapter apply.
- C. The owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts is not required to have a plat of the subdivision prepared if:
1. all of the lots of the subdivision are more than 10 acres in area; and
 2. the owner does not lay out a part of the tract described by (*Section 2, 2.1 A.3.*)
- D. The owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts and does not lay out a part of the tract described by (*Section 2, 2.1 A 3.*) to have a plat of the subdivision prepared if all the lots are sold to veterans through the Veterans' Land Board program.
- E. The provisions of this subchapter shall not apply to a subdivision of any tract of land belonging to the state or any state agency, board, or commission or owned by the permanent school fund or an other dedicated funds of the state unless the subdivision lays out a part of the tract described by (*Section 2, 2.1 A.3.*).
- F. The owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts is not required to have a plat of the subdivision prepared if:
1. the owner of the land is a political subdivision of the state;
 2. the land is situated in a flood plain; and
 3. the lots are sold to adjoining landowners.
- G. The owner of a tract of land located outside the limits of a municipality who divides the tract into two parts is not required to have a plat of the subdivision prepared if:
1. the owner does not lay out a part of the tract described by (*Section 2, 2.1 A.3.*), and;
 2. one new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of this chapter.
- H. The owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts is not required to have a plat of the subdivision prepared if:
1. the owner does not lay out a part of the tract described by (*Section 2, 2.1 A.3.*), and;
 2. all parts are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.

2.3 Plat Requirements

- A. The final plat shall be submitted with complete construction documents including plans and specifications with plan and profiles showing line and grade of all streets, roads, bridges, sanitary and storm sewers, ditches, utility easements and course and the location of all existing pipelines or pipeline easements through the proposed subdivision.

2.4 Plat Approval

Authority for these regulations is given in V.T.C.A., Local Government Code § 232.101. Subchapter E (SB873).

- A. In approving the plat for recording in Fort Bend County, the Commissioners' Court will consider the health, safety, morals, or general welfare of the citizens of Fort Bend County and the safe, orderly, and healthful development of the unincorporated area of the County. This will include all the specific items listed below plus other considerations that are important to citizens of the area and Fort Bend County. These will include and not be limited to street specifications and widths, traffic patterns and traffic control, drainage and flood protection, sanitary sewers and water systems, recreational facilities, school sites and any other amenity that applies to the area being considered.
- B. The final plat and the construction documents must be reviewed, approved and signed by the County Engineer and the drainage plans must be reviewed and approved by the Drainage District Engineer before the final plat is presented to Commissioners' Court for approval.

2.5 Approval by Fort Bend County Commissioners' Court Required

Authority for these regulations is given in V.T.C.A., Local Government Code § 232.002.

- A. The Commissioners Court of the Fort Bend County must approve, by an order entered in the minutes of the court, a plat required by (*Section 2, 2.1A.*). The Commissioners' Court may refuse to approve a plat if it does not meet the requirements prescribed by or under this chapter or if any bond required under this chapter is not filed with the County.

2.6 Timely Approval of Plats

Authority for these regulations is given in V.T.C.A., Local Government Code § 232.0025.

- A. The County Engineer shall issue a written list of the documentation and other information that must be submitted with a plat application. Required by (*Appendix U*). The documentation or other information must relate to a requirement authorized under this section or other applicable law. An application submitted to the County Engineer that contains the documents and other information on the list will be considered complete.
- B. If a person submits a plat application to the County Engineer that does not include all of the documentation or other information required by (*Section 2, 2.6 A.*), the County Engineer shall, not later than the 10th business day after the date the County Engineer receives the application, notify the applicant of the missing documents or

other information. The County Engineer shall allow an applicant to timely submit the missing documents or other information.

- C. An application is considered complete when all documentation or other information required by (*Section 2, 2.6 A.*) is received. Acceptance by the County Engineer of a completed plat application with the documentation or other information required by (*Section 2, 2.6 A.*) shall not be construed as approval of the documentation or other information.
- D. Except as provided by (*Section 2, 2.6 F.*), the County Engineer shall present a completed plat application, including the resolution of all appeals, to the County Commissioner' Court not later than the 60th day after the date a completed plat application is received by the County Engineer.
- E. If the County Commissioner' Court disapproves a plat application, the applicant shall be given a complete list of the reasons for the disapproval.
- F. The 60-day period under (*Section 2, 2.6 D.*).
 - 1. may be extended for a reasonable period, if agreed to in writing by the applicant and approved by the County Engineer;
 - 2. may be extended 60 additional days if (*Chapter 2007, Government Code*), requires the county to perform a takings impact assessment in connection with a plat application; and
 - 3. applies only to a decision wholly within the control of the County Engineer
- G. The County Engineer shall make the determination under (*Section 2, 2.6 F.2.*) of whether the 60-day period will be extended not later than the 20th day after the date a completed plat application is received by the County Engineer.
- H. The County Engineer may not compel an applicant to waive the time limits contained in this section.
- I. If the Commissioner' Court fails to take final action on the plat as required by (*Section 2, 2.6 D.*).
 - 1. the plat application is granted by operation of law; and
 - 2. the applicant may apply to a District Court in the county where the tract of land is located for a writ of mandamus to compel the Commissioners' Court to issue documents recognizing the plat's approval.

2.7 Plat Recording

- A. The plat must be filed and recorded with the Fort Bend County Clerk.
- B. The plat is subject to the filing and recording provisions of (*Section 12.002 Property Code*).

2.8 Construction

- A. Construction shall not begin until the final plat has been approved by Commissioners' Court and recorded by the County Clerk, unless an early start date is authorized, in writing, by the Precinct Commissioner.

2.9 Revised Plat

Authority for these regulations is given in V.T.C.A., Local Government Code § 232.009.

- A. A revised subdivision plat may be submitted for recording with the County Clerk with written approval of the Engineering Department and Commissioners' Court.

Refer to (*Section 3, 3.14*) for the requirement for submitting a revised plat.

2.10 Supplemental Subdivision Platting Policy

- A. Refer to (*Appendix P*) for *Regulation of Subdivisions* for areas within the Extraterritorial Jurisdiction of cities or towns. This supplemental subdivision platting policy shall apply only to the subdivision of land and development of property which is both in Fort Bend County and within the Extraterritorial Jurisdiction of the city or town designated in the appendix.

2.11 Bond Requirements

Authority for these regulations is given in V.T.C.A., Local Government Code § 232.004.

- A. Fort Bend Commissioners' Court requires the owner of the tract to execute a bond, before subdividing the tract unless an alternative financial guarantee is provided under (*Section 232.0045 of the V. T. C. A. Local Government Code*), the bond must:
1. be payable to the County Judge of the county in which the subdivision will be located or to the Judge's successor in office;
 2. be in an amount determined by the Commissioners' Court to be adequate to ensure proper construction of the roads and streets in and drainage requirements for the subdivision, but not to exceed the estimated cost of construction of the roads, streets, and drainage requirements;
 3. be executed with sureties as may be approved by the court;
 4. be executed by a company authorized to do business as a surety in this state if the court requires a surety bond executed by a corporate surety; and
 5. be conditioned that the roads and streets and the drainage requirements for the subdivision will be constructed:
 - a. in accordance with the specifications adopted by the court; and
 - b. within a reasonable time set by the court.
 6. Bonds shall have a minimum standard rating of "A" or better according to the most current issue of the A.M. Best Key Rating Guide.
 7. Bonds or Letters of Credit shall be original only. No poorly copied copies or faxed copies shall be accepted. Refer to (*Appendix M*) for Bond form.
- B. Financial Guarantee in Lieu of Bond.
1. In lieu of the bond an owner may deposit cash or, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee. Refer to (*Appendix N*) for Letter of Credit form.
 2. If a letter of credit is used, it must:
 - a. list as the sole beneficiary the Fort Bend County Judge; and
 - b. be conditioned that the owner of the tract of land to be subdivided will construct any roads or streets in the subdivision:
 - (1) in accordance with the specifications adopted by the Commissioners Court; and
 - (2) within a reasonable time set by the court.
- C. Bond amounts are given in (*Section 3, 3.9*) of the regulations.

2.12 One Year Maintenance Period

- A. The conditions and requirements for the mandatory one year maintenance period for roads, streets, drainage and detention facilities and acceptance of such roads, streets, drainage and detention facilities into the County Maintenance System are given in (*Section 6, 6.2 A.*).

2.13 Drainage Systems

- A. The design and construction of all drainage systems within Fort Bend County shall comply with the established standard principles and practices given in the Fort Bend County DRAINAGE CRITERIA MANUAL.

2.14 Road and Street Design

- A. The design and construction of all roads and streets within Fort Bend County shall comply with requirement of these regulations and the Fort Bend County DESIGN STANDARDS AND DETAILS.

2.15 Traffic Impact Study

- A. A traffic impact study shall be required for any development proposal expected to generate traffic volumes that will significantly impact the capacity and/or safety of the street system. All proposed developments generating volumes of 5,000 trips per day or greater shall meet this criteria. The trip estimates shall be based on the latest version of the Institute of Transportation Engineers, Trip Generation Manual.

2.16 Concurrent Jurisdiction

- A. If the tract of land to be subdivided is within or partially within the extraterritorial jurisdiction of any city or town within Fort Bend County, Texas, the more stringent regulations of the two governing bodies shall apply.

2.17 Private Water and Septic Systems

- A. Refer to the *Fort Bend County Health Department Environmental Division Rules for On-site Sewerage Facilities* for requirements for subdivisions to be serviced by private water wells and or on-site septic systems.

2.18 Utilities in Unincorporated Areas

- A. An order imposing restrictions on the connection of utilities in the unincorporated areas of Fort Bend County was adopted by Commissioners Court on January 7, 2003. Refer to (*Appendix T*) for order adopted.

2.19 Outdoor Lighting in the Unincorporated Areas

- A. An order for regulation of outdoor lighting in the unincorporated areas of Fort Bend County was adopted by Commissioners Court on March 23, 2004. Refer to the

County web site www.co.fort-bend.tx.us, available on the home page under “Fort Bend County Lighting Ordinance”, for order adopted.

- B. The conditions associated with this order shall be placed upon the face of the plat as referred to in *(Appendix A) Owner’s Acknowledgment*. The Owner hereby acknowledges the receipt of the “Orders for Regulation of Outdoor Lighting in the Unincorporated Areas of Fort Bend County, Texas”, and do hereby covenant and agree and shall comply with this order as adopted by Fort Bend County Commissioners Court on March 23, 2004.
- C. The applicable lighting zone shall be designated upon the face of the plat.

2.20 Use of Groundwater

Authority for these regulations is given in V.T.C.A., Local Government Code § 232.0032.

- A. If a person submits a plat for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, the Commissioners court of a County by order may require the plat application to have attached to it a statement that:
 - 1. is prepared by an engineer registered to practice in this state; and
 - 2. certifies that adequate groundwater is available for the subdivision.
- A. The Texas Commission on Environmental Quality (TCEQ), by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.

2.21 Variances

- A. The County Engineering Department shall review the variance request and make a recommendation to the Commissioners Court. The Commissioners Court may then authorize a variance from these regulations when in its opinion undue hardship will result from requiring strict compliance. The applicant shall have the responsibility of proving that compliance would create a hardship. In granting a variance, the Commissioners Court may prescribe conditions that it deems necessary or desirable to the public interest. Any conditions that are prescribed shall be deemed continuing and shall be placed of record in the office of the county clerk either on the face of the subdivision plat or as an attachment thereto. The Commissioners Court shall take into account the nature of the proposed use of land involved and existing uses of the land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon public health, safety, convenience, and welfare in the vicinity. No variance will be granted unless the Commissioners Court finds that an undue hardship exists. The following conditions must be present for consideration:
 - 1. There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land;
 - 2. The granting of the variance will not be detrimental to the public safety or

- welfare, or injurious to other property in the area;
3. The granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this chapter; and
 4. A more appropriate design solution exists which is not currently allowed in this chapter.
- B. A variance may not be granted in such cases where the only evidence for the granting of the variance is the loss of a potential profit at the time of the lot development and build out. Economic hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.
- C. Such recommendations of the County Engineering Department and findings of the Commissioners Court, together with the specific facts on which such findings are based, shall be incorporated in the official minutes of the County Engineering Department and the Commissioners Court meetings at which such variance is recommended or granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. The Commissioners Court may reach a conclusion that a hardship exists if it finds that:
1. The applicant complies strictly with the provisions of this chapter, and no other reasonable use of the property may be made except for the use that is proposed and recommended;
 2. The hardship to which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
 3. The hardship relates to the applicant's land, rather than personal circumstances;
 4. The hardship is unique to the property, rather than one shared by many surrounding properties; and
 5. The hardship is not the result of the applicant's own actions or neglectful conduct.
- D. In granting variances, the County may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. All conditions as are imposed shall be placed of record on the face of the subdivision plat or may, as an alternative thereof, be placed of record by separate instrument duly filed for record with the subdivision plat in the office of the County Clerk.
- E. A variance may, at the sole discretion of the Commissioners Court, be issued for an indefinite duration or for a specified period of time.

- F. All conditions imposed by the Commissioners Court are enforceable in the same manner as any other applicable requirement of this variance.

2.22 Regulations and Addenda

Authority for these regulations is given in V.T.C.A., Local Government Code § 232.0015.

- A. These regulations and any and all future additions to and changes of will be binding for all new subdivision plats, revised plats or replats in Fort Bend County that are not within the legal limits of any incorporated city or town that are submitted to Commissioners' Court for approval after August 27, 2002.
- B. These regulations shall not apply to any roads being maintained by Fort Bend County.
- C. Any deviation or variances from the requirements of these regulations is subject to review and approval by the Commissioners' Court. Any deviations or variance from these regulations must be presented in a separate written document submitted to and approved by the County Engineer.

2.23 Plat Recordation Fees

- A. Plat Recordation Fees are applicable to all subdivision plats approved by Fort Bend County Commissioners Court and is payable to the County Clerk at the time the plat is presented for recordation. Refer to (*Appendix V*) for Fee Calculation Form.

2.24 Platting Fees

- A. The Platting Fee Schedule is applicable to all subdivision plats approved by Fort Bend County Commissioners Court and is payable to the County Clerk at the time the plat is presented for recordation. The effective date of the Subdivision Platting Fees shall be the date approved as effective by Fort Bend County Commissioners Court. Refer to (*Appendix V*) for Fee Calculation Form.

2.25 Validity

- A. The several provisions of these regulations are separable, in accordance with the following.
1. If any sentence, phrase, section, paragraph, article of any part of these rules, regulations and requirements is declared invalid, unenforceable or unconstitutional for any cause or reason, such invalidity, non-enforceable or unconstitutionality shall not be held to affect, invalidate or impair the validity, force or effect of any other sentence, phrase, section, paragraph, article or any other part of these rules, regulations and requirements.
 2. If any court of competent jurisdiction shall judge invalid the application of any provision of these regulations to a particular property, such judgment shall not affect the application of said provision to any other property not specifically included in said judgment.

2.26 Enforcement

- A. The Commissioners' Court may request the County's attorney or any other prosecuting attorney representing the County to file an action in a court of competent jurisdiction to:
1. Enjoin the violation or threatened violation of a requirement established by this order.
 2. Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by this order.

END OF SECTION TWO