

# FAYETTE COUNTY SUBDIVISION REGULATIONS

On November 13, 2001, acting pursuant to the Texas Local Government Code, Chapter 232, the Commissioners' Court of Fayette County, Texas adopted the following regulations governing the subdivision of land, thereby repealing the regulations adopted August 14, 2000 in effect until such adoption.

The requirements, specifications, and procedures provided hereafter must be complied with prior to any contract for sale, or legal conveyance of any real property in Fayette County, Texas subject to such regulations, and no utility shall serve or connect any subdivided land unless such utility receives a written determination of plat approval or inapplicability.

The knowing or intentional violation of a requirement established by these Regulations shall be a Class B misdemeanor punishable by confinement in the County Jail for 180 days and/or a fine not to exceed \$2,000.00 in addition to civil remedies provided in Section 6 of the Regulations.

## 1. SUBDIVISION PLATTING REQUIREMENT

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 Subsection (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.

## 2. EXCEPTIONS TO SUBDIVISION PLATTING REQUIREMENT

These regulations do not apply if the owner of a tract of land divides it into two or more parts and does not lay out 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, and;

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- a) the land is used primarily for agricultural uses, or for farm, ranch, wildlife management, or timber production use; or
- b) the tract is divided into four or fewer parts and the parts are sold, given, or otherwise transferred to an individual who is related to the owner within the third degree of consanguinity or affinity; or
- c) There are no 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, and
  - (1) all lots of the subdivision are more than 10 acres in area; or
  - (2) all lots are sold to veterans through the Veterans' Land Board program; or
  - (3) 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 these regulations; or
  - (4) all parts of the tract 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.
- d) the tract is owned by the State or other State agency, board, or commission or owned by the permanent school fund or any other dedicated funds of the State; or
- e) the owner of the land is a political subdivision of the State, the land is situated in a flood plain, and the lots are sold to adjacent landowners.

**3. PLAT REQUIREMENTS**

- a) 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, alley, 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.
- b) The owner or proprietor of the tract or owner's or proprietor's agent must

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acknowledge the plat in the manner required for the acknowledgment of deeds.

- c) The plat must be filed and recorded with the County Clerk of Fayette County, Texas.
- d) The plat is subject to the filing and recording provisions of Section 12.002, Property Code, and must have attached to it, an original tax certificate from each taxing unit with jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the real property, and a statement upon the plat as to whether the subdivision is in the extraterritorial jurisdiction of a municipality.

#### 4. PLAT APPROVAL

Plat approval application shall be made to the Inspection Enforcement Officer in the Office of the County Judge and shall include six (6) copies of the proposed plat. The application shall include six (6) copies of the documentation and information required hereafter. If all documentation and information required hereafter is not included, the County shall notify the Applicant within ten (10) business days of the submission as to the deficiency.

Once the application submission is complete, the Commissioners' Court shall act on same within 60 days, unless such period is extended by mutual agreement of the Applicant and the Commissioners' Court.

The Commissioners' Court may refuse to approve a plat if it does not meet the requirements herein, or if any required bond is not filed with the County. If disapproved, the Applicant shall be given a list of reasons for such disapproval.

#### 5. DOCUMENTATION AND INFORMATION REQUIREMENTS

The application submission for approval of a subdivision shall include:

- a) A comprehensive and detailed plan, prepared by a registered professional engineer providing adequate drainage for each street or road in the subdivision, and providing for drainage that efficiently manages the flow of storm water runoff in the subdivision, all in accordance with standard engineering practice.
- b) The proposed subdivision plat containing the legal descriptions in metes and bounds of lots or tracts of not less than two (2) acres each, and configured so that each may permit the installation of a sewage disposal system complying with all State and County requirements in which the system and any drain lines are not less than 100 feet from any pond or other water impoundment, water well, and the lot boundary lines.

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c) A dedication to the public of all streets and roads which shall have a right-of-way of at least 60 feet with a paved roadway complying with specifications in Exhibit A hereto of at least 20 feet width, shoulder to shoulder width of 30 feet, and 15 feet on each side of the roadway for drainage and utility installation. A variance may be granted for other specifications in which the durability and cost exceeds the minimum standards herein. Any dead-end street must have a cul-de-sac with a radius of 55 feet. Should such proposed subdivision contain only lots or tracts of 50 acres or more of area, the Applicant at Applicant's option, may dedicate the streets, squares, parks, or other part of the tract to the private use of purchasers or owners on or adjacent to such streets, squares, parks, or other part of the tract, their guests and invitees. Such private streets shall have the right-of-way dimensions as above set forth, but may be constructed with materials and standards within the discretion of Applicant. Should Applicant make such election, any purchase contract or instrument of conveyance to a purchaser shall contain the following statement in capital letters of ten point or larger type:

THE SUBDIVISION ROAD PROVIDING ACCESS TO YOUR TRACT IS A PRIVATE ROAD AND NOT CONSTRUCTED TO COUNTY STANDARDS FOR NEW ROADS. FAYETTE COUNTY SHALL NOT ACCEPT SUCH ROAD FOR PUBLIC USE, REGULATION, POLICING, AND MAINTENANCE UNLESS IT IS HEREAFTER DEDICATED TO THE PUBLIC AND IMPROVED TO NEW PUBLIC ROAD STANDARDS THEN EXISTING BY THE SUBDIVISION OWNERS.

d) The proposed statement to be made in each purchase contract describing the extent to which water will be made available to the subdivision, and how and when if such availability is made.

e) A good and sufficient bond prior to subdivision, being payable to the County Judge or to the Judge's successor in office; in an amount determined by the Commissioners' Court to be adequate to ensure proper construction of the public roads and streets in, and drainage requirements for, the subdivision, but not to exceed the estimated cost of construction of the public roads, streets, and drainage requirements; be executed with sureties as may be approved by the Court ; 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 be conditioned that the public roads and streets and the drainage requirements for the subdivision will be constructed in accordance with the specifications adopted by the Court; and within a reasonable time set by the Court, and payment be made for appropriate

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signs installed by the County Commissioner of such precinct at the expense of the subdivider.

In lieu of the bond an owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee. If a letter of credit is used, it must list as the sole beneficiary the County Judge; and be conditioned that the owner of the tract of land to be subdivided will construct all public roads or streets in the subdivision, and pay for signs.

f) If Applicant intends the source of water for the subdivision to be groundwater under the land, the application shall include a statement prepared by a registered professional engineer certifying that adequate groundwater is available for the subdivision, in a form acceptable to the Texas Natural Resource Conservation Commission.

g) A plat application fee to defray the cost of the County of having the plat and accompanying information reviewed by the designated County Engineer, such fee to be \$100.00 for each lot or tract, with the minimum fee to be \$500.00.

Prior to the release of the performance bond provided in paragraph (e) above, if public roads and streets are built Applicant shall pay to Fayette County a sum for installation by the County of uniform road identification signs and traffic control signs as required by the County Commissioner of the precinct in which the subdivision is located, in the amount of \$100.00 for each installation site.

h) Upon completion of the public roads and streets, and drainage construction, Applicant shall submit to the designated County Engineer all compaction and core test data results, and the report of a registered professional engineer stating that such construction was completed according to the approved specifications and in compliance with Exhibit A hereto.

## 6. ENFORCEMENT AND PENALTIES

At the request of the Commissioners' Court, the County Attorney may file an action in Court to enjoin the violation or threatened violation of a requirement established by, or adopted by the Commissioners' Court herein; or 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, or adopted by the Commissioners' Court herein.

A person commits an offense if the person knowingly or intentionally violates a requirement established by, or adopted by the Commissioners' Court in these regulations. An offense under this subsection is a Class B misdemeanor.

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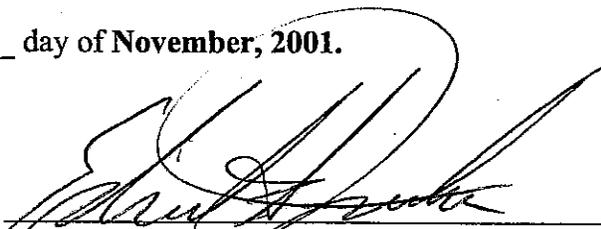
**7. WAIVER**

Commissioners' Court may waive required platting for a division of land affected by these regulations, or grant other variance for good cause shown as in the case of restricted access (gated) communities, in the sound discretion of Commissioners' Court, and upon standards of equal application and fairness.

**8. GENERAL APPLICATION**

The regulations adopted herein shall also apply to a manufactured home community as same is defined by §232.007 Texas Local Government Code, and the regulations herein, to the extent provided by law, shall govern minimum infrastructure standards for such manufactured home communities, and any infrastructure development plan submitted for approval shall be processed and considered in the same time, manner, and requirements of submission and application as are subdivisions.

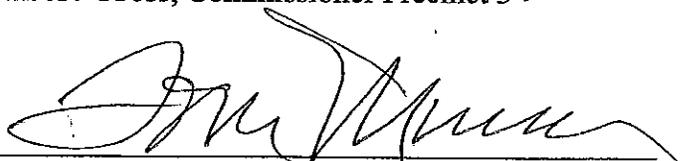
DONE and ADOPTED this 13th day of **November, 2001.**

  
Edward F. Janecka, County Judge

  
David Noak, Commissioner Precinct 1

  
Gary W. Weishuhn, Commissioner Precinct 2

  
Wilbert Gross, Commissioner Precinct 3

  
Tom Muras, Commissioner Precinct 4

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COUNTY CLERK, FAYETTE COUNTY, TEXAS

**REVISED AMENDMENT TO THE FAYETTE COUNTY  
SUBDIVISION REGULATIONS  
ADOPTED NOVEMBER 13, 2001 ("THE REGULATIONS")**

**1. Each Tract ("Daughter Tract") Resulting From A Division Of Real Property Is Required To Have Separate, Individual and Exclusive Access To A Public Road**

A. A proposed division of a tract of land in Fayette County, although excepted from the requirement of platting the resulting tracts (the "daughter tracts"), such exceptions being listed and described in "2. Exceptions to Subdivision Platting Requirement" of the Regulations adopted November 13, 2001, is not allowed to occur unless all proposed daughter tracts each have a thirty (30) feet or wider, separate, individual and exclusive access path to an existing public road. Said thirty (30) feet or wider, separate, individual and exclusive access path to an existing public road must be owned, in fee or easement, by the same owner(s) as the owner(s) of the proposed daughter tract, must be conveyed along with the proposed daughter tract, and the conveyance of the access path must be recorded in the Fayette County Clerk's Official Public Records along with the conveyance of the daughter tract.

B. A daughter tract that has less than a sixty (60) feet wide separate, individual and exclusive access path to an existing public road, or has less than sixty (60) feet of frontage on a public road, and results from a division of a tract of land that is allowed as meeting the requirements of paragraph A above, is restricted and barred from further division.

C. A proposed division of a tract of land proposed to be divided into four or fewer parts, and where all the resulting tracts (the "daughter tracts") are sold, given, or otherwise transferred to an individual who is related to the owner of the tract of land within the third degree of consanguinity or affinity, are not required to meet the separate, individual, and exclusive access path to an existing public road requirement referenced in Paragraph A above, provided that the access path shared by such family members, such shared access path being to an existing public road, is a minimum of forty (40) feet wide, and further provided that the conveyances of all the daughter tracts to the family members, along with the conveyance(s) of the access path(s) to an existing public road, are all recorded in the Fayette County Clerk's Official Public Records.

**CONSIDERED, ADOPTED, MADE, ORDERED, SIGNED, ENTERED AND DONE IN OPEN MEETING AND OPEN COURT** by vote of the Fayette County Commissioners Court on this the 10th day of December, 2018, upon motion of Commissioner Judge Janecka, seconded by Commissioner Weishuhn, with 4 members of the Commissioners' Court being present, 3 members of Commissioners' Court voting in favor thereof, 1 members voting against and 0 members abstaining.

  
Edward F. Janecka, County Judge

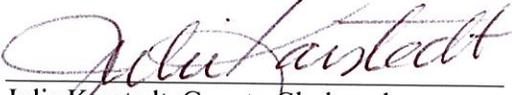
Against  
\_\_\_\_\_  
Jason McBroom, Commissioner, Prct. 1

  
Harvey Berckenhoff, Commissioner, Prct. 3

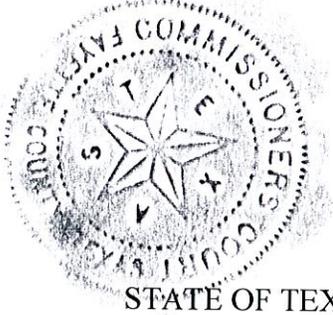
  
\_\_\_\_\_  
Gary Weishuhn, Commissioner, Prct. 2

Absent  
\_\_\_\_\_  
Tom Muras, Commissioner, Prct. 4

**ATTEST:**

  
\_\_\_\_\_  
Julie Karstedt, County Clerk and  
Clerk of the Commissioners' Court

**ACKNOWLEDGEMENT**

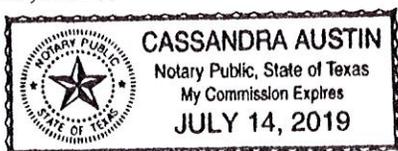


STATE OF TEXAS

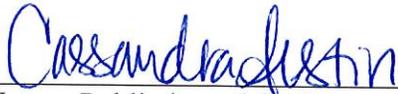
COUNTY OF FAYETTE

**BEFORE ME**, the undersigned Notary Public in and for said County and State, on this day personally appeared **EDWARD F. JANECKA, FAYETTE COUNTY JUDGE**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of **FAYETTE COUNTY, TEXAS** for the purposes and consideration therein expressed and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** this 10<sup>th</sup> day of December, 2018.



(SEAL)

  
\_\_\_\_\_  
Notary Public in and for Fayette County, Texas  
My commission expires: July 14, 2019

**" Agenda Action 10 Exhibit " 11-10-2021**

**Draft examples for Discussion:**

**Amendment "D". - Flag Lots**

**1) Flag type lots shall be avoided with new divisions of property; when the applicant desires flag type lots for the development of the property, such applications will be reviewed by the Commissioners' Court. Approved flag type developments shall meet all TXDOT requirements if along a state maintained Right-of-Way, or the Fayette County Driveway Standards if along a County maintained Right-of-Way.**

**A flag lot consists of a "stem" which is typically long and narrow and connects the larger area with a public road. A "flag" section area which is typically a larger area where land development occurs. Flag lots shall generally be avoided and used only where property lines, topography and/or drainage require the use of flag lots to develop property at similar intensity by similarly situated property.**

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## **Amendment E**

- Divisions of property creating 5 lots or more within a 24 month period shall be platted.
- All lots, platted or exempt, must have a minimum width and depth of 170' except for Cul-de-sac frontage properties, Flag lots, and irregular shaped tracts that shall be subject to approval by the commissioners' court.
- New lots shall have a minimum buildable area of 1 acre outside of the 1% annual chance FEMA determined flood zone. Variance request shall be accompanied by an approved FEMA Letter of Map Amendment or a Hydraulic and Hydrologic analysis prepared by a licensed engineer.
- Plats containing any infrastructure for dedication to the public are subject to a drainage review. Costs for this review will be paid by the applicant.  
It shall be demonstrated that the post-construction drainage design will have no adverse impact on adjoining or downstream properties.  
Plats with no infrastructure dedicated to the public shall have a note for recommended culvert size as determined by a licensed engineer for driveways along the public right of way.