

AN ACT

relating to the authority of municipalities and counties to regulate subdivisions and certain development in a municipality's extraterritorial jurisdiction and in the unincorporated area of a county.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading of Section 242.001, Local Government Code, is amended to read as follows:

Sec. 242.001. REGULATION OF SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION GENERALLY.

SECTION 2. (a) Section 242.001(a), Local Government Code, as amended by Chapters 736 and 1028, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and a municipality that has extraterritorial jurisdiction in that county. Subsections (b)-(g) [~~(b)-(e)~~] do not apply:

(1) within a county that contains extraterritorial jurisdiction of a municipality with a population of 1.9 million or more; or

(2) within a county within 50 miles of an international border, or to which Subchapter C, Chapter 232, applies.

(b) This section takes effect only if House Bill No. 1197,

1 Acts of the 78th Legislature, Regular Session, 2003, does not
2 become law. If that bill becomes law, this section has no effect.

3 SECTION 3. (a) Section 242.001(a), Local Government Code,
4 as amended by Chapters 736 and 1028, Acts of the 77th Legislature,
5 Regular Session, 2001, is reenacted and amended to read as follows:

6 (a) This section applies only to a county operating under
7 Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and
8 a municipality that has extraterritorial jurisdiction in that
9 county. Subsections (b)-(g) [~~(b)-(e)~~] do not apply:

10 (1) within a county that contains extraterritorial
11 jurisdiction of a municipality with a population of 1.9 million or
12 more; [~~or~~]

13 (2) within a county within 50 miles of an
14 international border, or to which Subchapter C, Chapter 232,
15 applies; or

16 (3) to a tract of land subject to a development
17 agreement under Subchapter G, Chapter 212, or other provisions of
18 this code.

19 (b) This section takes effect only if House Bill No. 1197,
20 Acts of the 78th Legislature, Regular Session, 2003, becomes law.
21 If that bill does not become law, this section has no effect.

22 SECTION 4. Section 242.001, Local Government Code, is
23 amended by reenacting and amending Subsection (c), as amended by
24 Chapters 736 and 1028, Acts of the 77th Legislature, Regular
25 Session, 2001, and by amending Subsections (d), (f), and (g) and
26 adding Subsections (h) and (i) to read as follows:

27 (c) Except as provided by Subsections (d)(3) and (4), a

1 municipality and a county may not both regulate subdivisions and
2 approve related permits in the extraterritorial jurisdiction of a
3 municipality after an agreement under Subsection (d) is executed.
4 The municipality and the county shall enter into a written
5 agreement that identifies the governmental entity authorized to
6 regulate subdivision plats and approve related permits in the
7 extraterritorial jurisdiction. For a municipality in existence on
8 September 1, 2001, the municipality and county shall enter into a
9 written agreement under this subsection on or before April 1, 2002.
10 For a municipality incorporated after September 1, 2001, the
11 municipality and county shall enter into a written agreement under
12 this subsection not later than the 120th day after the date the
13 municipality incorporates. On reaching an agreement, the
14 municipality and county shall certify that the agreement complies
15 with the requirements of this chapter. The municipality and the
16 county shall adopt the agreement by order, ordinance, or
17 resolution. The agreement must be amended by the municipality and
18 the county if necessary to take into account an expansion or
19 reduction in the extraterritorial jurisdiction of the
20 municipality. The municipality shall notify the county of any
21 expansion or reduction in the municipality's extraterritorial
22 jurisdiction. Any expansion or reduction in the municipality's
23 extraterritorial jurisdiction that affects property that is
24 subject to a preliminary or final plat, a plat application, or an
25 application for a related permit filed with the municipality or the
26 county or that was previously approved under Section 212.009 or
27 Chapter 232 does not affect any rights accrued under Chapter 245.

1 The approval of the plat, ~~or~~ any permit, a plat application, or an
2 application for a related permit remains effective as provided by
3 Chapter 245 regardless of the change in designation as
4 extraterritorial jurisdiction of the municipality.

5 (d) An agreement under Subsection (c) may grant the
6 authority to regulate subdivision plats and approve related permits
7 in the extraterritorial jurisdiction of a municipality as follows:

8 (1) the municipality may be granted exclusive
9 jurisdiction to regulate subdivision plats and approve related
10 permits in the extraterritorial jurisdiction and may regulate
11 subdivisions under Subchapter A of Chapter 212 and other statutes
12 applicable to municipalities;

13 (2) the county may be granted exclusive jurisdiction
14 to regulate subdivision plats and approve related permits in the
15 extraterritorial jurisdiction and may regulate subdivisions under
16 Sections 232.001-232.005, Subchapter B or C, Chapter 232, and other
17 statutes applicable to counties;

18 (3) the municipality and the county may apportion the
19 area within the extraterritorial jurisdiction of the municipality
20 with the municipality regulating subdivision plats and approving
21 related permits in the area assigned to the municipality and the
22 county regulating subdivision plats and approving related permits
23 in the area assigned to the county; or

24 (4) the municipality and the county may enter into an
25 interlocal agreement that:

26 (A) establishes one office that is authorized to:

27 (i) accept plat applications for tracts of

1 land located in the extraterritorial jurisdiction;

2 (ii) collect municipal and county plat
3 application fees in a lump-sum amount; and

4 (iii) provide applicants one response
5 indicating approval or denial of the plat application; and

6 (B) establishes a single set of consolidated and
7 consistent [~~set of~~] regulations related to plats, subdivision
8 construction plans, and subdivisions of land as authorized by
9 Chapter 212, Sections 232.001-232.005, Subchapters B and C, Chapter
10 232, and other statutes applicable to municipalities and counties
11 that will be enforced in the extraterritorial jurisdiction.

12 (f) If a certified agreement between a county and
13 municipality as required by Subsection (c) is not in effect on or
14 before the applicable date prescribed by Section 242.0015(a), the
15 municipality and the county must enter into arbitration as provided
16 by Section 242.0015. If the arbitrator or arbitration panel, as
17 applicable, has not reached a decision in the 60-day period as
18 provided by Section 242.0015, the arbitrator or arbitration panel,
19 as applicable, shall issue an interim decision regarding the
20 regulation of plats and subdivisions and approval of related
21 permits in the extraterritorial jurisdiction of the municipality.
22 The interim decision shall provide for a single set of regulations
23 and authorize a single entity to regulate plats and subdivisions.
24 The interim decision remains in effect only until the arbitrator or
25 arbitration panel reaches a final decision. [~~This subsection~~
26 ~~applies until an agreement is reached under Subsection (d). For an~~
27 ~~area in a municipality's extraterritorial jurisdiction, as defined~~

1 ~~by Section 212.001, a plat may not be filed with the county clerk~~
2 ~~without the approval of both the municipality and the county. If a~~
3 ~~municipal regulation and a county regulation relating to plats and~~
4 ~~subdivisions of land conflict, the more stringent regulation~~
5 ~~prevails. However, if one governmental entity requires a plat to be~~
6 ~~filed for the subdivision of a particular tract of land in the~~
7 ~~extraterritorial jurisdiction of the municipality and the other~~
8 ~~governmental entity does not require the filing of a plat for that~~
9 ~~subdivision, the authority responsible for approving plats for the~~
10 ~~governmental entity that does not require the filing shall issue on~~
11 ~~request of the subdivider a written certification stating that a~~
12 ~~plat is not required to be filed for that subdivision of the land.~~
13 ~~The certification must be attached to a plat required to be filed~~
14 ~~under this subsection.]~~

15 (g) If a regulation or agreement adopted under this section
16 relating to plats and subdivisions of land or subdivision
17 development establishes a plan for future roads that conflicts with
18 a proposal or plan for future roads adopted by a metropolitan
19 planning organization, the proposal or plan of the metropolitan
20 planning organization prevails [~~Subsection (f) applies to a county~~
21 ~~and area to which Subsections (b)-(e) do not apply].~~

22 (h) This subsection applies only to a county to which
23 Subsections (b)-(g) do not apply, except that this subsection does
24 not apply to a county subject to Section 242.002. For an area in a
25 municipality's extraterritorial jurisdiction, as defined by
26 Section 212.001, a plat may not be filed with the county clerk
27 without the approval of both the municipality and the county. If a

1 municipal regulation and a county regulation relating to plats and
2 subdivisions of land conflict, the more stringent regulation
3 prevails. However, if one governmental entity requires a plat to be
4 filed for the subdivision of a particular tract of land in the
5 extraterritorial jurisdiction of the municipality and the other
6 governmental entity does not require the filing of a plat for that
7 subdivision, the authority responsible for approving plats for the
8 governmental entity that does not require the filing shall issue on
9 request of the subdivider a written certification stating that a
10 plat is not required to be filed for that subdivision of the land.
11 The certification must be attached to a plat required to be filed
12 under this subsection.

13 (i) Property subject to pending approval of a preliminary or
14 final plat application filed after September 1, 2002, that is
15 released from the extraterritorial jurisdiction of a municipality
16 shall be subject only to county approval of the plat application and
17 related permits and county regulation of that plat. This subsection
18 does not apply to the simultaneous exchange of extraterritorial
19 jurisdiction between two or more municipalities or an exchange of
20 extraterritorial jurisdiction that is contingent on the subsequent
21 approval by the releasing municipality.

22 SECTION 5. Chapter 242, Local Government Code, is amended
23 by adding Section 242.0015 to read as follows:

24 Sec. 242.0015. ARBITRATION REGARDING SUBDIVISION
25 REGULATION AGREEMENT. (a) This section applies only to a county
26 and a municipality that are required to make an agreement as
27 described under Section 242.001(f). If a certified agreement

1 between a county and a municipality with an extraterritorial
2 jurisdiction that extends 3.5 miles or more from the corporate
3 boundaries of the municipality is not in effect on or before January
4 1, 2004, the parties must arbitrate the disputed issues. If a
5 certified agreement between a county and a municipality with an
6 extraterritorial jurisdiction that extends less than 3.5 miles from
7 the corporate boundaries of the municipality is not in effect on or
8 before January 1, 2006, the parties must arbitrate the disputed
9 issues. A party may not refuse to participate in arbitration
10 requested under this section. An arbitration decision under this
11 section is binding on the parties.

12 (b) The county and the municipality must agree on an
13 individual to serve as arbitrator. If the county and the
14 municipality cannot agree on an individual to serve as arbitrator,
15 the county and the municipality shall each select an arbitrator and
16 the arbitrators selected shall select a third arbitrator.

17 (c) The third arbitrator selected under Subsection (b)
18 presides over the arbitration panel.

19 (d) Not later than the 30th day after the date the county and
20 the municipality are required to have an agreement in effect under
21 Section 242.001(f), the arbitrator or arbitration panel, as
22 applicable, must be selected.

23 (e) The authority of the arbitrator or arbitration panel is
24 limited to issuing a decision relating only to the disputed issues
25 between the county and the municipality regarding the authority of
26 the county or municipality to regulate plats, subdivisions, or
27 development plans.

1 (f) Each party is equally liable for the costs of an
2 arbitration conducted under this section.

3 (g) The arbitrator or arbitration panel, as applicable,
4 shall render a decision under this section not later than the 60th
5 day after the date the arbitrator or arbitration panel is selected.
6 If after a good faith effort the arbitrator or panel has not reached
7 a decision as provided under this subsection, the arbitrator or
8 panel shall continue to arbitrate the matter until the arbitrator
9 or panel reaches a decision.

10 (h) A municipality and a county may not arbitrate the
11 subdivision of an individual plat under this section.

12 SECTION 6. Subchapter A, Chapter 212, Local Government
13 Code, is amended by adding Section 212.0025 to read as follows:

14 Sec. 212.0025. CHAPTER-WIDE PROVISION RELATING TO
15 REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL
16 JURISDICTION. The authority of a municipality under this chapter
17 relating to the regulation of plats or subdivisions in the
18 municipality's extraterritorial jurisdiction is subject to any
19 applicable limitation prescribed by an agreement under Section
20 242.001.

21 SECTION 7. Subchapter A, Chapter 232, Local Government
22 Code, is amended by adding Section 232.0013 to read as follows:

23 Sec. 232.0013. CHAPTER-WIDE PROVISION RELATING TO
24 REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL
25 JURISDICTION. The authority of a county under this chapter
26 relating to the regulation of plats or subdivisions in the
27 extraterritorial jurisdiction of a municipality is subject to any

1 applicable limitation prescribed by an agreement under Section
2 242.001 or by Section 242.002.

3 SECTION 8. Section 232.0015(b), Local Government Code, is
4 amended to read as follows:

5 (b) Except as provided by Section 232.0013, this [~~This~~]
6 subchapter does not apply to a subdivision of land to which
7 Subchapter B applies.

8 SECTION 9. Section 232.009(b), Local Government Code, is
9 amended to read as follows:

10 (b) A person who owns real property in a tract that has been
11 [~~has~~] subdivided and [~~land~~] that is subject to the subdivision
12 controls of the county in which the property [~~land~~] is located may
13 apply in writing to the commissioners court of the county for
14 permission to revise the subdivision plat that applies to the
15 property and that is filed for record with the county clerk.

16 SECTION 10. Subchapter A, Chapter 232, Local Government
17 Code, is amended by adding Section 232.0095 to read as follows:

18 Sec. 232.0095. ALTERNATIVE PROCEDURES FOR PLAT REVISION.

19 (a) This section applies only to real property located outside
20 municipalities and outside the extraterritorial jurisdiction, as
21 determined under Chapter 42, of municipalities with a population of
22 1.5 million or more.

23 (b) As an alternative to the provisions in Section 232.009
24 governing the revision of plats, a county by order may adopt the
25 provisions in Sections 212.013, 212.014, 212.015, and 212.016
26 governing plat vacations, replatting, and plat amendment within a
27 municipality's jurisdiction. A county that adopts the provisions

1 in those sections may approve a plat vacation, a replat, and an
2 amending plat in the same manner and under the same conditions,
3 including the notice and hearing requirements, as a municipal
4 authority responsible for approving plats under those sections.

5 SECTION 11. Section 232.100, Local Government Code, is
6 amended to read as follows:

7 Sec. 232.100. APPLICABILITY. This subchapter applies only
8 to the subdivision of the land that is:

9 (1) subject to county regulations under Subchapter A
10 or B; and

11 (2) in a county that:

12 (A) has a population of 150,000 or more and is
13 adjacent to an international border;

14 (B) has a population of 700,000 or more; ~~[or]~~

15 (C) is adjacent to a county with a population of
16 700,000 or more and is within the same metropolitan statistical
17 area as that adjacent county, as designated by the United States
18 Office of Management and Budget; or

19 (D) is adjacent to a county with a population of
20 700,000 or more, is not within the same metropolitan statistical
21 area as that adjacent county, and has a population that has
22 increased after the 1990 decennial census, from one decennial
23 census to the next, by more than 40 percent.

24 SECTION 12. If any provision of this Act or its application
25 to any county, municipality, or circumstance is held invalid, the
26 invalidity does not affect other provisions or applications of this
27 Act that can be given effect without the invalid provision or

1 application, and to this end the provisions of this Act are declared
2 to be severable.

3 SECTION 13. Except as provided by Section 242.001(i), Local
4 Government Code, as added by this Act, the changes in law made by
5 this Act to Chapters 212, 232, and 242, Local Government Code, apply
6 only to a development agreement or subdivision plat that is filed on
7 or after the effective date of this Act, and to the subdivision
8 covered by the plat. A development agreement or subdivision plat
9 that is filed before the effective date of this Act, and the
10 subdivision covered by the plat, are governed by the law in effect
11 immediately preceding that date, and the former law is continued in
12 effect for that purpose.

13 SECTION 14. This Act takes effect immediately if it
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas Constitution.
16 If this Act does not receive the vote necessary for immediate
17 effect, this Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 1204 was passed by the House on April 24, 2003, by the following vote: Yeas 138, Nays 4, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1204 on May 30, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1204 on June 1, 2003, by the following vote: Yeas 147, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 1204

I certify that H.B. No. 1204 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 29, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1204 on June 1, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor