

By: Baxter

H.B. No. 1204

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of municipalities and counties to
3 regulate subdivisions in a municipality's extraterritorial
4 jurisdiction.

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

6 SECTION 1. Section 242.001, Local Government Code, as
7 amended by Chapters 736 and 1028, Acts of the 77th Legislature,
8 Regular Session, 2001, is reenacted and amended to read as follows:

9 Sec. 242.001. REGULATION OF SUBDIVISIONS IN
10 EXTRATERRITORIAL JURISDICTION GENERALLY. (a) This section
11 applies [~~only~~] to a county unless the county is subject to Section
12 242.002 [~~operating under Sections 232.001-232.005 or Subchapter B,~~
13 ~~C, or E, Chapter 232~~]. [~~Subsections (b)-(c) do not apply:~~

14 [~~(1) within a county that contains extraterritorial~~
15 ~~jurisdiction of a municipality with a population of 1.9 million or~~
16 ~~more; or~~

17 [~~(2) within a county within 50 miles of an~~
18 ~~international border, or to which Subchapter C, Chapter 232,~~
19 ~~applies.~~]

20 (b) For an area in a municipality's extraterritorial
21 jurisdiction, as defined by Section 212.001, a subdivision plat may
22 not be filed with the county clerk without the approval of the
23 governmental entity authorized under Subsection (c) [~~or (d)~~] to
24 regulate subdivisions in the area.

1 (c) In the extraterritorial jurisdiction of a municipality,
2 the municipality may regulate plats and subdivisions in accordance
3 with Subchapter A of Chapter 212 and other statutes applicable to
4 municipalities, and the county may regulate plats and subdivisions
5 in accordance with Chapter 232 and other statutes applicable to
6 counties. If a municipal regulation conflicts with a county
7 regulation:

8 (1) the county regulation prevails if it relates to
9 the design and construction of roads, road drainage infrastructure,
10 or subdivision drainage infrastructure; and

11 (2) the municipal regulation prevails in all other
12 cases. ~~[Except as provided by Subsections (d)(3) and (4), a~~
13 ~~municipality and a county may not both regulate subdivisions in the~~
14 ~~extraterritorial jurisdiction of a municipality after an agreement~~
15 ~~under Subsection (d) is executed. The municipality and the county~~
16 ~~shall enter into a written agreement that identifies the~~
17 ~~governmental entity authorized to regulate subdivision plats and~~
18 ~~approve related permits in the extraterritorial jurisdiction. For a~~
19 ~~municipality in existence on September 1, 2001, the municipality~~
20 ~~and county shall enter into a written agreement under this~~
21 ~~subsection on or before April 1, 2002. For a municipality~~
22 ~~incorporated after September 1, 2001, the municipality and county~~
23 ~~shall enter into a written agreement under this subsection not~~
24 ~~later than the 120th day after the date the municipality~~
25 ~~incorporates. The municipality and the county shall adopt the~~
26 ~~agreement by order, ordinance, or resolution. The agreement must be~~
27 ~~amended by the municipality and the county if necessary to take into~~

1 ~~account an expansion or reduction in the extraterritorial~~
2 ~~jurisdiction of the municipality. The municipality shall notify the~~
3 ~~county of any expansion or reduction in the municipality's~~
4 ~~extraterritorial jurisdiction. Any expansion or reduction in the~~
5 ~~municipality's extraterritorial jurisdiction that affects property~~
6 ~~that is subject to a preliminary or final plat filed with the~~
7 ~~municipality or that was previously approved under Section 212.009~~
8 ~~does not affect any rights accrued under Chapter 245. The approval~~
9 ~~of the plat or any permit remains effective as provided by Chapter~~
10 ~~245 regardless of the change in designation as extraterritorial~~
11 ~~jurisdiction of the municipality.~~

12 ~~[(d) An agreement under Subsection (c) may grant the~~
13 ~~authority to regulate subdivision plats and approve related permits~~
14 ~~in the extraterritorial jurisdiction of a municipality as follows:~~

15 ~~[(1) the municipality may be granted exclusive~~
16 ~~jurisdiction to regulate subdivision plats and approve related~~
17 ~~permits in the extraterritorial jurisdiction and may regulate~~
18 ~~subdivisions under Subchapter A of Chapter 212 and other statutes~~
19 ~~applicable to municipalities;~~

20 ~~[(2) the county may be granted exclusive jurisdiction~~
21 ~~to regulate subdivision plats and approve related permits in the~~
22 ~~extraterritorial jurisdiction and may regulate subdivisions under~~
23 ~~Sections 232.001-232.005, Subchapter B or C, Chapter 232, and other~~
24 ~~statutes applicable to counties;~~

25 ~~[(3) the municipality and the county may apportion the~~
26 ~~area within the extraterritorial jurisdiction of the municipality~~
27 ~~with the municipality regulating subdivision plats and approving~~

1 ~~related permits in the area assigned to the municipality and the~~
2 ~~county regulating subdivision plats and approving related permits~~
3 ~~in the area assigned to the county; or~~

4 ~~[(4) the municipality and the county may enter into an~~
5 ~~interlocal agreement that:~~

6 ~~[(A) establishes one office that is authorized~~
7 ~~to:~~

8 ~~[(i) accept plat applications for tracts of~~
9 ~~land located in the extraterritorial jurisdiction;~~

10 ~~[(ii) collect municipal and county plat~~
11 ~~application fees in a lump-sum amount; and~~

12 ~~[(iii) provide applicants one response~~
13 ~~indicating approval or denial of the plat application; and~~

14 ~~[(B) establishes a consolidated and consistent~~
15 ~~set of regulations related to plats and subdivisions of land as~~
16 ~~authorized by Chapter 212, Sections 232.001-232.005, Subchapters B~~
17 ~~and C, Chapter 232, and other statutes applicable to municipalities~~
18 ~~and counties that will be enforced in the extraterritorial~~
19 ~~jurisdiction.~~

20 ~~[(c) In an unincorporated area outside the extraterritorial~~
21 ~~jurisdiction of a municipality, the municipality may not regulate~~
22 ~~subdivisions or approve the filing of plats, except as provided by~~
23 ~~The Interlocal Cooperation Act, Chapter 791, Government Code.~~

24 ~~[(f) This subsection applies until an agreement is reached~~
25 ~~under Subsection (d). For an area in a municipality's~~
26 ~~extraterritorial jurisdiction, as defined by Section 212.001, a~~
27 ~~plat may not be filed with the county clerk without the approval of~~

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

13 ~~[(g) Subsection (f) applies to a county and area to which~~
14 ~~Subsections (b)-(c) do not apply.]~~

15 SECTION 2. Chapter 242, Local Government Code, is amended
16 by amending Section 242.002 and by redesignating Subsection (d) of
17 that section as Section 242.003 to read as follows:

18 Sec. 242.002. REGULATION OF SUBDIVISIONS IN
19 EXTRATERRITORIAL JURISDICTION IN POPULOUS COUNTIES OR CONTIGUOUS
20 COUNTIES. (a) This section applies only to a county that:

21 (1) has a population of 700,000 or more; or

22 (2) is adjacent to a county with a population of
23 700,000 or more and is within the same metropolitan statistical
24 area as that adjacent county, as designated by the United States
25 Office of Management and Budget ~~[operating under Section 232.006].~~

26 (b) For an area in a municipality's extraterritorial
27 jurisdiction, as defined by Section 212.001, a subdivision plat may

1 not be filed with the county clerk without the approval of the
2 governmental entity authorized under Subsection (c) or (d) to
3 regulate subdivisions in the area [municipality].

4 (c) In the extraterritorial jurisdiction of a municipality,
5 the county [municipality] has exclusive authority to regulate plats
6 and subdivisions in accordance with Chapter 232 and other statutes
7 applicable to counties [under Subchapter A of Chapter 212 and other
8 statutes applicable to municipalities].

9 (d) The county and municipality may enter into an interlocal
10 agreement that authorizes the municipality to:

- 11 (1) regulate construction and design standards for:
12 (A) streets and roads in a subdivision;
13 (B) street and road drainage infrastructure in a
14 subdivision;
15 (C) subdivision drainage infrastructure; and
16 (D) water, wastewater, and utility systems for a
17 subdivision if those systems are to be connected to a municipally
18 owned utility; and

19 (2) require that the owner of a subdivided tract
20 execute a performance bond for the construction of the improvements
21 to ensure completion of the project.

22 (e) An agreement under Subsection (d) is valid only if:

23 (1) the municipality maintains any infrastructure
24 subject to municipal regulations under Subsection (d) that meets
25 the construction and design standards adopted under Subsection (d);

26 (2) the municipality does not adopt construction and
27 design standards under Subsection (d) that exceed the standards

1 enforced for similar infrastructure within the municipal limits;
2 and

3 (3) the county relinquishes the authority to regulate
4 construction and design standards assumed by the municipality under
5 Subsection (d).

6 Sec. 242.003. REGULATION OF SUBDIVISIONS OUTSIDE
7 EXTRATERRITORIAL JURISDICTION. In each county in an
8 unincorporated area outside the extraterritorial jurisdiction of a
9 municipality, the municipality may not regulate subdivisions or
10 approve the filing of plats, except as provided by The Interlocal
11 Cooperation Act, Chapter 791, Government Code [~~Article 4413(32c),~~
12 ~~Vernon's Texas Civil Statutes~~].

13 SECTION 3. Subchapter A, Chapter 212, Local Government
14 Code, is amended by adding Section 212.0025 to read as follows:

15 Sec. 212.0025. CHAPTER-WIDE PROVISION RELATING TO
16 REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL
17 JURISDICTION. The authority of a municipality under this chapter
18 relating to the regulation of plats or subdivisions in the
19 municipality's extraterritorial jurisdiction is subject to any
20 applicable limitation prescribed by Section 242.001 or 242.002.

21 SECTION 4. 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 Section 242.001 or 242.002.

2 SECTION 5. Section 232.0015(b), Local Government Code, is
3 amended to read as follows:

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

7 SECTION 6. Section 232.006(b), Local Government Code, is
8 amended to read as follows:

9 (b) If a county elects to operate under this section,
10 Section 232.005 does not apply to the county. The sections of this
11 chapter preceding Section 232.005 do apply to the county in the same
12 manner that they apply to other counties except that:

13 (1) ~~[they apply only to tracts of land located outside~~
14 ~~municipalities and the extraterritorial jurisdiction of~~
15 ~~municipalities, as determined under Chapter 42,~~

16 ~~[(2)]~~ the commissioners court of the county, instead of
17 having the powers granted by Sections 232.003(2) and (3), may:

18 (A) require a right-of-way on a street or road
19 that does not function as a main artery in the subdivision of not
20 less than 40 feet or more than 50 feet; and

21 (B) require that the street cut on a main artery
22 within the right-of-way be not less than 30 feet or more than 45
23 feet, and that the street cut on any other street or road within the
24 right-of-way be not less than 25 feet or more than 35 feet; and

25 (2) ~~[(3)]~~ Section 232.004(5)(B) does not apply to the
26 county.

27 SECTION 7. Section 232.008(a), Local Government Code, is

1 amended to read as follows:

2 (a) This section applies only to real property that is:

3 (1) located outside municipalities and the
4 extraterritorial jurisdiction of municipalities, as determined
5 under Chapter 42; and

6 (2) subject to regulation under Section 242.002.

7 SECTION 8. The changes in law made by this Act to Chapters
8 212, 232, and 242, Local Government Code, apply only to a
9 subdivision plat that is filed on or after September 1, 2003, and to
10 the subdivision covered by that plat. A subdivision plat that is
11 filed before September 1, 2003, and the subdivision covered by that
12 plat, are governed by the law in effect immediately preceding that
13 date, and the former law is continued in effect for that purpose.

14 SECTION 9. This Act takes effect September 1, 2003.