

By: Wentworth

S.B. No. 2097

A BILL TO BE ENTITLED

AN ACT

relating to granting counties authority to regulate certain land use; providing penalties.

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

SECTION 1. Section 232.001(b), Local Government Code, is amended to read as follows:

(b) 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; and

(4) comply with any other requirements of this chapter or an order adopted by the county under this chapter.

SECTION 2. Sections 232.002(a) and (c), Local Government Code, are amended to read as follows:

(a) The commissioners court of the county in which the land is located must approve, by an order entered in the minutes of the court, a plat required by Section 232.001. The commissioners court may refuse to approve a plat if:

(1) the plat ~~it~~ does not meet the requirements

1 prescribed by or under this chapter or an order adopted by the
2 commissioners court under this chapter; or

3 (2) [~~if~~] any bond required under this chapter is not
4 filed with the county.

5 (c) If no portion of the land subdivided under a plat
6 approved under this section is sold or transferred before January 1
7 of the 51st year after the year in which the plat was approved, the
8 approval of the plat expires, and the owner must resubmit a plat of
9 the subdivision for approval. A plat resubmitted for approval
10 under this subsection is subject to the requirements prescribed by
11 this chapter and any orders adopted by the commissioners court
12 under this chapter in effect at the time the plat is resubmitted.

13 SECTION 3. Sections 232.0021(a) and (b), Local Government
14 Code, are amended to read as follows:

15 (a) The commissioners court may impose an application fee to
16 cover the cost of the county's review of a subdivision plat and
17 inspection of street, road, [~~and~~] drainage, and other improvements
18 described by the plat.

19 (b) The fee may vary based on the number of proposed lots in
20 the subdivision, the acreage described by the plat, the type or
21 extent of proposed street, [~~and~~] drainage, and other improvements,
22 or any other reasonable criteria as determined by the commissioners
23 court.

24 SECTION 4. Section 232.0025(a), Local Government Code, is
25 amended to read as follows:

26 (a) The commissioners court of a county or a person
27 designated by the commissioners court shall issue a written list of

1 the documentation and other information that must be submitted with
2 a plat application. The documentation or other information must
3 relate to a requirement authorized under this chapter [~~section~~] or
4 other applicable law. An application submitted to the
5 commissioners court or the person designated by the commissioners
6 court that contains the documents and other information on the list
7 is considered complete.

8 SECTION 5. Section 232.003, Local Government Code, is
9 amended to read as follows:

10 Sec. 232.003. SUBDIVISION REQUIREMENTS. By an order
11 adopted and entered in the minutes of the commissioners court, and
12 after a notice is published in a newspaper of general circulation in
13 the county, the commissioners court may:

14 (1) require a right-of-way on a street or road that
15 functions or is intended to function as a main artery in a
16 subdivision, of a width of not less than 50 feet or more than 100
17 feet;

18 (2) require a right-of-way on any other street or road
19 in a subdivision of not less than 40 feet or more than 70 feet;

20 (3) require that the shoulder-to-shoulder width on
21 collectors or main arteries within the right-of-way be not less
22 than 32 feet or more than 56 feet, and that the shoulder-to-shoulder
23 width on any other street or road be not less than 25 feet or more
24 than 35 feet;

25 (4) adopt, based on the amount and kind of travel over
26 each street or road in a subdivision, reasonable specifications
27 relating to the construction of each street or road;

1 (5) adopt reasonable specifications to provide
2 adequate drainage for each street or road in a subdivision in
3 accordance with standard engineering practices;

4 (6) require that each purchase contract made between a
5 subdivider and a purchaser of land in the subdivision contain a
6 statement describing the extent to which water will be made
7 available to the subdivision and, if it will be made available, how
8 and when;

9 (7) require that the owner of the tract to be
10 subdivided execute a good and sufficient bond in the manner
11 provided by Section 232.004;

12 (8) adopt reasonable specifications that provide for
13 drainage in the subdivision to:

14 (A) efficiently manage the flow of stormwater
15 runoff in the subdivision; and

16 (B) coordinate subdivision drainage with the
17 general storm drainage pattern for the area; and

18 (9) require lot and block monumentation to be set by a
19 registered professional surveyor before recordation of the plat.

20 SECTION 6. Section 232.004, Local Government Code, is
21 amended to read as follows:

22 Sec. 232.004. BOND REQUIREMENTS. If the commissioners
23 court requires the owner of the tract to execute a bond, the owner
24 must do so before subdividing the tract unless an alternative
25 financial guarantee is provided under Section 232.0045. The bond
26 must:

27 (1) be payable to the county judge of the county in

1 which the subdivision will be located or to the judge's successors
2 in office;

3 (2) be in an amount determined by the commissioners
4 court to be adequate to ensure proper construction of the roads,
5 ~~[and]~~ streets, and other infrastructure, including, if applicable,
6 water supply and sewage collection and treatment systems in the
7 subdivision, [in] and drainage requirements for the subdivision,
8 but not to exceed the estimated cost of construction of the roads,
9 streets, and other infrastructure and drainage requirements;

10 (3) be executed with sureties as may be approved by the
11 court;

12 (4) be executed by a company authorized to do business
13 as a surety in this state if the court requires a surety bond
14 executed by a corporate surety; and

15 (5) be conditioned that the roads, ~~[and]~~ streets, and
16 other infrastructure and the drainage requirements for the
17 subdivision will be constructed:

18 (A) in accordance with the specifications
19 adopted by the court; and

20 (B) within a reasonable time set by the court.

21 SECTION 7. Section 232.0045(b), Local Government Code, is
22 amended to read as follows:

23 (b) If a letter of credit is used, it must:

24 (1) list as the sole beneficiary the county judge of
25 the county in which the subdivision is located; and

26 (2) be conditioned that the owner of the tract of land
27 to be subdivided will construct any roads, ~~[or]~~ streets, and other

1 infrastructure, and the drainage requirements in the subdivision:

2 (A) in accordance with the specifications
3 adopted by the commissioners court; and

4 (B) within a reasonable time set by the court.

5 SECTION 8. Sections 232.005(a) and (b), Local Government
6 Code, are amended to read as follows:

7 (a) At the request of the commissioners court, the county
8 attorney or other prosecuting attorney for the county may file an
9 action in a court of competent jurisdiction to:

10 (1) enjoin the violation or threatened violation of a
11 requirement established by, or adopted by the commissioners court
12 under [~~a preceding section of~~] this chapter; or

13 (2) recover damages in an amount adequate for the
14 county to undertake any construction or other activity necessary to
15 bring about compliance with a requirement established by, or
16 adopted by the commissioners court under [~~a preceding section of~~]
17 this chapter.

18 (b) A person commits an offense if the person knowingly or
19 intentionally violates a requirement established by, or adopted by
20 the commissioners court under [~~a preceding section of~~] this
21 chapter. An offense under this subsection is a Class B misdemeanor.
22 This subsection does not apply to a violation for which a criminal
23 penalty is prescribed by Section 232.0048.

24 SECTION 9. Section 232.007(g), Local Government Code, is
25 amended to read as follows:

26 (g) Construction of a proposed manufactured home rental
27 community may not begin before the date the county engineer or

1 another person designated by the commissioners court approves the
2 infrastructure development plan. The commissioners court may
3 require inspection of the infrastructure during or on completion of
4 its construction. If a final inspection is required, the final
5 inspection must be completed not later than the sixth [~~second~~]
6 business day after the date the commissioners court or the person
7 designated by the commissioners court receives a written
8 confirmation from the owner that the construction of the
9 infrastructure is complete. If the inspector determines that the
10 infrastructure complies with the infrastructure development plan,
11 the commissioners court shall issue a certificate of compliance not
12 later than the fifth business day after the date the final
13 inspection is completed. If a final inspection is not required, the
14 commissioners court shall issue a certificate of compliance not
15 later than the fifth business day after the date the commissioners
16 court or the person designated by the commissioners court receives
17 written certification from the owner that construction of the
18 infrastructure has been completed in compliance with the
19 infrastructure development plan.

20 SECTION 10. Section 232.008(c), Local Government Code, is
21 amended to read as follows:

22 (c) The commissioners court shall publish notice of an
23 application for cancellation. The notice must be published in a
24 newspaper, published in the English language, in the county [~~for~~]
25 at least three weeks before the date on which action is taken on the
26 application. The court shall take action on an application at a
27 regular term. The published notice must direct any person who is

1 interested in the property and who wishes to protest the proposed
2 cancellation to appear at the time specified in the notice.

3 SECTION 11. Section 232.0085(c), Local Government Code, is
4 amended to read as follows:

5 (c) The commissioners court must publish notice of a
6 proposal to cancel a subdivision under this section and the time and
7 place of the required hearing in a newspaper of general circulation
8 in the county [~~for~~] at least 21 days immediately before the date a
9 cancellation order is adopted under this section. The county tax
10 assessor-collector shall, not later than the 14th day before the
11 date of the hearing, deposit with the United States Postal Service a
12 similar notice addressed to each owner of land in the subdivision,
13 as determined by the most recent county tax roll.

14 SECTION 12. Section 232.009(a), Local Government Code, is
15 amended to read as follows:

16 (a) This section applies only to real property located
17 outside a municipality [~~municipalities~~] and outside the
18 extraterritorial jurisdiction, as determined under Chapter 42, of a
19 municipality [~~municipalities~~] with a population of 1.5 million or
20 more [~~, as determined under Chapter 42~~].

21 SECTION 13. Section 232.0095(a), Local Government Code, is
22 amended to read as follows:

23 (a) This section applies only to real property located
24 outside a municipality [~~municipalities~~] and outside the
25 extraterritorial jurisdiction, as determined under Chapter 42, of a
26 municipality [~~municipalities~~] with a population of 1.5 million or
27 more.

1 SECTION 14. Section 232.011(a), Local Government Code, is
2 amended to read as follows:

3 (a) The commissioners court may approve and issue an
4 amending plat, if the amending plat is signed by the applicants and
5 filed for one or more of the following purposes:

6 (1) to correct an error or make minor adjustments in a
7 course or distance shown on the preceding plat;

8 (2) to add a course or distance that was omitted on the
9 preceding plat;

10 (3) to correct an error in a real property description
11 shown on the preceding plat;

12 (4) to show the location or character of a monument
13 that has been changed in location or character or that is shown
14 incorrectly as to location or character on the preceding plat;

15 (5) to correct any other type of scrivener or clerical
16 error or omission of the previously approved plat, including lot
17 numbers, acreage, street names, and identification of adjacent
18 recorded plats; or

19 (6) to correct an error or make minor adjustments in
20 courses and distances of lot lines between two adjacent lots if:

21 (A) both lot owners join in the application for
22 amending the plat;

23 (B) neither lot is abolished;

24 (C) the amendment does not attempt to remove
25 recorded covenants or restrictions; and

26 (D) the amendment does not have a material
27 adverse effect on the property rights of the other owners of the

1 property that is the subject of the plat.

2 SECTION 15. The heading to Subchapter E, Chapter 232, Local
3 Government Code, is amended to read as follows:

4 SUBCHAPTER E. INFRASTRUCTURE PLANNING PROVISIONS IN
5 CERTAIN [~~URBAN~~] COUNTIES

6 SECTION 16. Section 232.102, Local Government Code, is
7 amended to read as follows:

8 Sec. 232.102. MAJOR THOROUGHFARE PLAN. By an order adopted
9 and entered in the minutes of the commissioners court and after a
10 notice is published in a newspaper of general circulation in the
11 county, the commissioners court may:

12 (1) require a right-of-way on a street or road that
13 functions or is intended to function as a major thoroughfare of a
14 width of not more than 120 feet; or

15 (2) require a right-of-way on a street or road that
16 functions or is intended to function as a major thoroughfare of a
17 width of more than 120 feet, if such requirement is consistent with
18 a transportation plan adopted by the commissioners court
19 [~~metropolitan planning organization of the region~~].

20 SECTION 17. Section 232.103, Local Government Code, is
21 amended to read as follows:

22 Sec. 232.103. LOT FRONTAGES. By an order adopted and
23 entered in the minutes of the commissioners court and after a notice
24 is published in a newspaper of general circulation in the county,
25 the commissioners court may adopt reasonable standards for minimum
26 lot frontages on [~~existing county~~] roads in the unincorporated area
27 of the county and establish reasonable standards for the lot

1 frontages in relation to curves in the road.

2 SECTION 18. Section 232.109, Local Government Code, is
3 amended to read as follows:

4 Sec. 232.109. FIRE SUPPRESSION SYSTEM. In a subdivision
5 that is not served by fire hydrants as part of a centralized water
6 system certified by the Texas Commission on Environmental Quality
7 as meeting minimum standards for water utility service, the
8 commissioners court may require a limited fire suppression system
9 that requires a developer to construct:

10 (1) for a subdivision of fewer than 10 lots [~~50~~
11 ~~houses~~], 5,000 [~~2,500~~] gallons of storage; or

12 (2) for a subdivision of 10 [~~50~~] or more lots:

13 (A) 5,000 [~~houses, 2,500~~] gallons of storage if
14 the subdivision has [~~with~~] a centralized water system; or

15 (B) 10,000 [~~5,000~~] gallons of storage if the
16 subdivision does not have a centralized water system.

17 SECTION 19. (a) The changes in law made by this Act to
18 Chapter 232, Local Government Code, apply to a subdivision plat
19 application submitted for approval on or after the effective date
20 of this Act. A subdivision plat application submitted for approval
21 before the effective date of this Act is governed by the law in
22 effect when the application was submitted, and the former law is
23 continued in effect for that purpose.

24 (b) Section 232.005(b), Local Government Code, as amended
25 by this Act, applies only to an offense committed on or after the
26 effective date of this Act. For purposes of this section, an
27 offense is committed before the effective date of this Act if any

1 element of the offense occurs before that date. An offense
2 committed before the effective date of this Act is governed by the
3 law in effect when the offense was committed, and the former law is
4 continued in effect for that purpose.

5 (c) The notice requirements prescribed by Sections 232.008
6 and 232.0085, Local Government Code, as amended by this Act, apply
7 only to an application or proposal to cancel a subdivision
8 submitted on or after the effective date of this Act. An
9 application or proposal to cancel a subdivision submitted before
10 the effective date of this Act is governed by the law in effect when
11 the application or proposal was submitted, and the former law is
12 continued in effect for that purpose.

13 SECTION 20. This Act takes effect September 1, 2009.