

Clay County

Subdivision Rules and Regulations

March 2000

REVISED AUGUST 2007

REVISED OCTOBER 2010

THE STATE OF TEXAS §
§
COUNTY OF CLAY §

BE IT KNOWN THAT A REGULAR SESSION OF THE CLAY COUNTY COMMISSIONERS COURT WAS BEGUN AND HOLDEN ON MONDAY, MARCH 13, 2000, WITH THE FOLLOWING MEMBERS OF SAID COURT PRESENT, TO-WIT: LINDY CHOATE, COMMISSIONER PRECINCT NO. 1; HARLAN HICKS, COMMISSIONER PRECINCT NO. 2; WILSON SCALING, COMMISSIONER PRECINCT NO. 3; BRICE JACKSON, COMMISSIONER PRECINCT NO. 4, AND KENNETH LIGGETT, COUNTY JUDGE, CONSTITUTING A QUORUM, AND AMONG OTHER PROCEEDINGS, PASSED THE FOLLOWING ORDER:

ORDER NO. 5
MARCH 13, 2000

MOTION MADE BY COMMISSIONER JACKSON AND SECONDED BY COMMISSIONER CHOATE AND SO ORDERED BY THE COURT THAT COURT ACCEPT SUBDIVISION RULES AND REGULATIONS FOR CLAY COUNTY. COST OF BOOK OUTLINING SUBDIVISION RULES AND REGULATIONS \$10.00.

AYES: 5
NOES: 0

THE FOREGOING MINUTES READ AND APPROVED AND COURT ADJOURNED THIS 13TH DAY OF MARCH, 2000.

APPROVED: *Kenneth Liggett*
KENNETH LIGGETT, COUNTY JUDGE

THE STATE OF TEXAS §
§
COUNTY OF CLAY §

I, KAY HUTCHISON, CLERK OF THE COUNTY COURT OF CLAY COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL ORDER NO. 5 AS PASSED BY COMMISSIONERS COURT OF CLAY COUNTY, TEXAS, ON MARCH 13, 2000.

Kay Hutchison
KAY HUTCHISON, COUNTY CLERK, CLAY COUNTY, TX

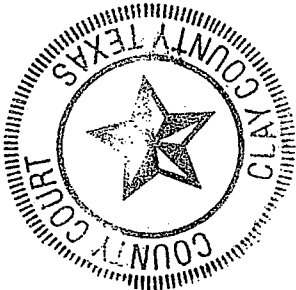


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SECTION A

The purpose of this Court Order is to provide for the safety, health and well being of the general public by requiring that adequate streets, drainage facilities and sewage facilities are provided in all subdivisions, and to provide facilities which can be maintained without imposing a burden to the taxpayers.

All departments and agencies of Clay County stand ready to assist individuals, builders, and developers in achieving overall performance standards as outlined in the following chapters.

In specific cases where literal interpretation of any section would work an undue economic hardship, variances may be sought, provided the overall performance standards are met. It should not be inferred, however, that specific requirements may be ignored. Enforcement authority and penalties for violations are outlined and the Commissioners Court will press their legal rights to gain total compliance. If any questions arise as to the interpretation of the language in any sections, the Commissioners Court will resolve all differences.

These regulations are in no way intended to restrict residential or commercial development in Clay County. Rather, it is hoped that through public and private sector cooperation, Clay County can achieve and maintain a quality and standard of life which reflects the highest traditions and standards of its citizens.

SECTION B ENFORCEMENT

- A. The Commissioners Court of Clay County shall have the authority to refuse to approve and authorize any map or plat of any such subdivision, unless such map or plat meets the requirements as set forth in these land development rules and regulations; and there is submitted at the time of approval of such map or plat financial security as may be required by these rules.

- B. At the request of the Commissioners Court of Clay County, the County Attorney or other prosecuting attorney representing the County may file and action in a court of competent jurisdiction to:
 - 1. Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under Chapter 232 of the V.T.C.A., Local Government Code; or
 - 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 the Commissioners Court under Chapter 232 of the V.T.C.A., Local Government Code.

- C. A person who commits an offense if the person knowingly or intentionally violates a requirement established by or adopted by the Commissioners Court under Chapter 232 of the V.T.C.A., Local Government Code. An offense under the subsection is a Class B Misdemeanor.

- D. A requirement that was established by or adopted under Chapter 436, Acts of the 55th Legislature, Regular Session 1957, as amended (Article 6626a, Vernon's Texas Civil Statutes), or Chapter 151, Acts of the 52nd Legislature, Regular Session 1951 (Article 2372k Vernon's Texas Civil Statutes), before September 1, 1983, and that, after that date, continues to apply for subdivision of land is enforceable under Subsection (B). A knowing or intentional violation of the requirement is an offense under subsection C of this Section.

The Commissioners Court may from time to time amend this Court Order, in accordance with appropriate procedures provided by law. It is the responsibility of the Developer to obtain the most current Subdivision Rules and Regulations as adopted by the Clay County Commissioners Court.

SECTION C DEFINITIONS

- A. For the purposes of this Court Order certain terms or words herein shall be interpreted or defined as follows:

Words used in the present tense include the future tense;
The singular includes the plural;
The word "person" includes a corporation as well as an individual;
The term "shall" is always mandatory.
The term "may" is directory.

- B. Words and terms not expressly defined herein are to be construed according to the normally accepted meaning of such words or terms or, where no definition appears, then according to their customary usage in the practice of municipal planning and engineering.
1. **Abandonment:** The legal process by which land dedicated to public use may revert to private use.
 2. **Administrative Officers:** Any office referred to in this Court Order by title, e.g., County Judge, County Commissioners, County Attorney, County Engineer, etc., shall be the person so retained in this position by the County, or their duly authorized representative.
 3. **Alley:** A minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise on a street.
 4. **Base Flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year., determined based upon FEMA (Federal Emergency Management Agency) guidelines and as shown in the current effective Flood Insurance Study.
 5. **Base Flood Plain:** that area subject to inundation by flood, having a one (1%) percent probability of occurrence in any given year, based on existing conditions of development within the watershed area, as determined by the Flood Insurance Study for Clay County provided by the Federal Emergency Management Agency.
 6. **Block:** is a tract or parcel of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, highway, stream, or corporate boundary lines.
 7. **Building:** is any structure built for support, shelter, or enclosure of persons, animals, or movable property of any kind.

8. **Building Setback Line:** The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street line.
9. **Commissioners Court:** The duly elected governing body of Clay County, Texas.
10. **Construction Plans:** See Engineering Plans.
11. **County:** Clay County, Texas, together with all its governing and operating bodies.
12. **County Attorney:** "County Attorney" shall apply only to such individual or firm qualified to represent clients in a court of law and to advise clients on legal matters and having been specifically designated by the Commissioners Court.
13. **County Commissioner:** The officially elected, appointed or authorized County Commissioner of a particular district of Clay County, Texas, or the County Commissioner's duly authorized representative.
14. **County Engineer:** "County Engineer" shall apply only to such Registered Professional Engineer or firm of Registered Professional Consulting Engineers that has been specifically designated by the Commissioners Court.
15. **County Road:** A public road or street which has been either dedicated to public use and accepted for same by the county or acquired by the county through prescription or is a road or street that was constructed by and is maintained by the County.
16. **Court:** See Commissioners Court
17. **Cul-de-sac:** A street having but one outlet to another street, and terminated on the opposite end by a vehicular turnaround.
18. **Dead-End-Street:** A street, other than a cul-de-sac, with only one outlet.
19. **Developer:** See subdivider
20. **Easement:** The word "easement" shall mean an area for restricted use on private property upon which any public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective systems on any of these easements. Any public utility shall at all times have the right of ingress and egress upon the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.

21. **Engineer:** A person duly authorized under the provisions of the Texas Engineering Practice Act, as heretofore or hereafter amended, to practice the profession of Engineering and who is specifically qualified to design and prepare Construction Plans and specifications for subdivision development.
22. **Engineering Plans:** A set of drawings and/or specification, including paving, water, wastewater, drainage, or other required plans, submitted to the County for review in conjunction with a subdivision or a development.
23. **Extraterritorial Jurisdiction:** The unincorporated area of the County that is contiguous to the corporate boundaries of a municipality, more specifically described in Section 42.021 of the Local Government Code, as same may exist or be amended in the future.
24. **FEMA:** Federal Emergency Management Agency
25. **Final Acceptance:** Acceptance by the Clay County Commissioners Court of all public infrastructure improvements constructed by the developer in conjunction with the development of land.
26. **Final Plat:** (Also Record Plat or Filing Plat). The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of of all identifiable points by a Surveyor with the subdivision location referenced to a survey corner and all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. Angular measurements and bearings shall be accurate to the nearest minute. Distances shall be accurate to the nearest tenth of a foot. The Final Plat of any lot, tract, or parcel of land shall be recorded in the Deed Records of Clay County, Texas.
27. **Flood Hazard Boundary Map (FHBM):** An official report provided by the (FIA) where the areas of special flood hazards have been designated.
28. **Flood Insurance Rate Map (FIRM):** An official map on which the FIA has delineated both the areas of special flood hazards and the risk premium zones applicable to flood insurance.
29. **Flood Insurance Study:** The official report provided by the FIA containing flood profiles, the water surface elevation of the base flood and the flood hazard boundary map.
30. **Flood Plain:** is the area subject to be inundated by water from the base flood.
31. **Floodway:** A drainage area designated on a plat to accommodate the design flood for existing creeks and open drainage ways.

32. **Floodway Easement:** A drainage area dedicated to the county for control and maintenance of a flood plain.
33. **Freeboard:** The vertical distance between the designated water surface level and the top of an open conduit left to allow for wave action, floating debris or any other condition or emergency without overtopping the structure.
34. **Homeowners (Property Owners) Association** is a formal nonprofit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a specific residential area is automatically a member and (b) each lot or property interest is automatically subject to a charge for a proportionate share of the expense for the organization's activities, such as the maintenance of common property, and (c) the charge if unpaid, becomes a lien against the nonpaying member's property.
35. **Infrastructure:** All roads, alleys, storm drainage, water, and wastewater facilities, utilities, and other facilities as required by Clay County.
36. **Installer:** An individual who holds a valid certificate and is compensated by another to perform services, construct, install, alter, or repair an OSSF.
37. **Land Planner:** Persons other than Surveyors or Engineers who also possess and can demonstrate a valid proficiency in the planning of residential, commercial, industrial and other related developments; such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum and/or by actual experience and practice in the field of land planning and shall be a member of the A. I. P.
38. **Lines, Building:** See Building Setback Line
39. **Lot:** An undivided tract or parcel of land having frontage on a public road and which is, or in the future may be offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.
40. **Off-site:** Located outside the boundary of a development.
41. **On-site:** Located within the boundary of a development.
42. **On-site Sewage Facility (OSSF):** One or more systems of treatment devices and disposal facilities that produce not more than 5,000 gallons of waste each day; and are used only for disposal of sewage produced on the site where the system is located.
43. **Owner:** See Subdivider

44. **Pavement Width:** The portion of a road available for vehicular traffic. Where curbs are laid, it is the portion between the face of the curbs. Otherwise, it is the portion between the edge of pavement.
45. **Precinct Commissioner:** The County Commissioner in whose precinct a subdivision is being planned or built.
46. **Preliminary Plat:** The graphic expression of the proposed overall plan for subdividing, improving and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing in plan existing and proposed drainage features and facilities, road layout and direction of curb flow, and other pertinent features with notation sufficient to substantially identify the general scope and detail of proposed development.
47. **Private Sewage Facility:** All systems and methods, other than organized disposal systems, used for the disposal of sewage and operated under a valid permit issued by Clay County.
48. **Registered Public Land Surveyor:** A person duly authorized under the provisions and statutes of the Texas Surveyors Registration Act to practice the profession of surveying.
49. **Replatting:** The resubdivision of any part or all of any block or blocks of a previously platted subdivision, addition, lot or tract.
50. **Right-of-Way:** That portion of the subdivision dedicated for public roads with the adjacent lot lines being the boundaries of the right-of-way.
51. **Road, County:** See County Road.
52. **Road Width:** See Pavement Width.
53. **Sewage Disposal Plan:** A technical report prepared by either a Registered Professional Engineer, a Registered Sanitarian, or a person who is certified to prepare a sewage Disposal plan in accordance with TNRCC requirements. The Plan shall describe the circumstances involved with sewage disposal on a land or tract that has been or proposed to be subdivided.
54. **Site Evaluator:** An individual who holds a valid certificate and visits a site and conducts a pre-construction site evaluation which includes performing soil analysis, a site survey, and other criteria necessary to determine the suitability of a site for a specific OSSF.
55. **Subdivider:** Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized

agent of such owner or equitable owner, of land sought to be subdivided.

56. **Subdivision:** "Subdivision" or "resubdivision" of land (also "Addition"), as used in this Court Order, shall be held and construed to include any division of an existing tract of land in two or more parts for laying out any suburban lots or building lots, or any lots, and roads, alleys or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto and being located within Clay County, Texas. (NOTE: Subject to SB710).
57. **Surveyor:** See Registered Public Land Surveyor.
58. **TNRCC:** Texas Natural Resources Conservation Commission
59. **Utility Easement:** See Easement

SECTION D
ENFORCEMENT AREA

The provision of the Court order shall apply to all of the unincorporated area of Clay County, Texas.

SECTION E PLATTING PROCEDURE

1. Preliminary Plats:

- a. The submission of a preliminary plat is necessary to:
 1. eliminate the duplication of subdivision names and street names.
 2. assure proper alignments of streets and drainage facilities.
 3. assure that the provisions of the FLOOD PLAIN REGULATIONS will be complied with, and that no lot will have a drainage problem.
 4. assure that the provisions of the SEWAGE REGULATIONS will be applied for.
 5. assure that all necessary permits or plan approvals have or will be applied for.
- b. Two (2) ("blue line copies" or reproductions") of the preliminary plats shall be submitted prior to or concurrent with the submission of any preliminary plats to a city exercising its extraterritorial authority. In the event the subdivisions fall within the jurisdiction of both Clay County and the City, the more stringent of the regulations shall prevail.
- c. Preliminary plats shall be approved by the Clay County Commissioners Court before a final plat can be submitted. No preliminary plat will be approved by the County prior to approval of the plat by a city exercising its extraterritorial authority.
- d. Preliminary plats shall be drawn on a 24" x 36" sheet at a scale of 1" = 200' except in those instances where a city exercising its extraterritorial authority requires a different sheet size and/or scale, or upon prior approval of the Clay County Commissioners Court.
- e. Preliminary plats shall show, or be accompanied by the following information:
 1. the name, address and telephone number of the developer, surveyor and/or engineer.
 2. the proposed name of the subdivision, and the names, locations, width and dimensions of all proposed and existing streets within the property.
 3. the location of the existing boundary lines in sufficient detail to accurately locate the property.
 4. the description, location, width and dimensions of proposed and existing utility and pipeline easements within and adjacent to the property.

5. the name, location and dimensions of all adjacent subdivisions and streets. Where there are no adjacent subdivisions, the preliminary plat shall show:
 1. the name of all adjacent property owners with the volume and page of recordation.
 2. the location and distance to the nearest subdivisions, and how the streets in the proposed subdivision may connect with those in the nearest subdivisions or other roads in the area.
 6. existing and proposed contour lines at the following intervals:
 1. when the land has less than a five percent (5%) slope, the contour interval shall not be greater than two feet (2”).
 2. when the land has more than a five percent (5%) slope, the contour interval shall not be greater than five feet (5’).
 7. the exact location, dimensions, description and flow line of all existing and proposed drainage structures.
 8. the location of the 100-year flood plain and all lots, or any part of a lot, that lies within the 100-year flood plain.
 9. the existing drainage areas upstream of the proposed subdivision, along with the drainage calculations of the amount of water coming into, across, and leaving the subdivision in sufficient detail to show any changes in the 100-year flood evaluation across the proposed subdivision, and on the property both upstream and downstream from the proposed subdivision.
 10. the date the plat was prepared.
 11. a north arrow and the scale of the plat.
 12. a location or vicinity map showing the location of the proposed subdivision within the county and to the nearest incorporated areas with a north arrow and scale of the vicinity map.
 13. preliminary water and sewer plans if applicable.
 14. execution of a Takings Impact Assessment (TIA) Waiver. (A signed waiver of the T.I.A. or County will complete the T.I.A.)
- f. All information listed in item “e” above is considered to be the minimum amount of information needed to assure compliance with this Court Order. Any deviations from items “a” through “e” shall have the written approval of the Clay County Commissioners Court

prior to submittal of the preliminary plat.

- g. If the proposed subdivision is a portion of a tract which is latter to be subdivided in its entirety, then a tentative master plan of the entire subdivision shall be submitted with the preliminary plat of the portion first to be subdivided.
- h. The Clay County Commissioners Court will review the preliminary plat and:
 - 1. send written comments to the developer stating the conditions of approval, if any, if the subdivision is outside the extraterritorial authority of a city.
 - 2. send written comments to the city and developer stating the conditions of approval, if any, if the subdivision is in the extraterritorial authority of a city.
- i. Approval of the preliminary plat does not constitute acceptance of the subdivision, but is merely an authorization to proceed with the preparation of the final plat for record. The approval will be in effect for one (1) year.
- j. The following certificate shall be placed on the preliminary plat:

THE COMMISSIONERS COURT OF CLAY COUNTY, TEXAS ON (date____, 20__)
VOTED AFFIRMATIVELY TO RECOMMEND CONDITIONAL APPROVAL OF
THIS PRELIMINARY PLAT, SUBJECT TO CONDITIONS ENUMERATED IN
MINUTES OF THIS DATE.

BY: _____
CLAY COUNTY JUDGE

COMMISSIONER, PRECINCT 1

COMMISSIONER, PRECINCT 2

COMMISSIONER, PRECINCT 3

COMMISSIONER, PRECINCT 4

ATTEST: _____
COUNTY CLERK

2. Final Plats:

a. The submission of final plats is necessary to:

1. assure proper identification and location of all streets, lots and easements.
2. assure that the streets will be properly constructed and maintained.
3. assure that the sewer systems have been approved by the Clay County Health Department.
4. assure that all proper dedications have been made for streets, easements and public spaces.
5. assure that all necessary permits have been obtained or applied for.

A final plat is required unless the subdivision meets the requirements for exceptions detailed in SB 710.

- b. For subdivisions outside of the extraterritorial authority of any city, the developer shall submit to the Clay County Commissioners Court the original on mylar and two (2) blue line copies of the final plat, at least ten (10) days prior to the Commissioners Court approval.
- c. For subdivisions located, wholly or in part, within the extraterritorial authority of any city, the developer shall submit to the Clay County Commissioners Court two (2) blue line copies of the final plat, prior to or concurrent with the submission of the final plat to a city exercising its extraterritorial authority. No final plat will be presented to the Commissioners Court before the plat has been approved by a city exercising its extraterritorial authority.
- d. Final plats shall be drawn on a 18" x 24" mylar sheet at a scale of 1" = 200' except in those instances where a city exercising its extraterritorial authority requires a different sheet size and/or scale, or upon approval of the Clay County Commissioners Court.
- e. The following statement shall be noted on the face of the final plat:
 1. Blocking the flow of water or construction improvements in drainage easements, and filling or obstruction of the flood way is prohibited.
 2. The existing creeks or drainage channels traversing along or across the addition will remain as open channels and will be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the drainage courses along or across said lots.

3. Clay County will not be responsible for the maintenance and operation of said drainage ways for or the control of erosion.
 4. Clay County will not be responsible for any damage, personal injury or loss of life or property occasioned by flooding or flooding conditions.
- f. In addition to the requirements for preliminary plats, final plats shall show or be accompanied by the following information:
1. the name of the subdivision, the names of the streets, the date that the plat was prepared, a north arrow and a graphic scale.
 2. sufficient data to reproduce, on the ground, the bearing and length of all streets, blocks, lots and easements. Curves on streets, blocks and easements shall include the radius, length and central angle of the curve. Curves on lots shall show the radius and length of the curve.
 3. the accurate location of adjacent subdivision streets, blocks, lots and easements, or the property owner if the adjacent land is undeveloped.
 4. the number of all lots and blocks arranged in a systematic order, and clearly shown on the plat in distinct and legible figures.
 5. the 100-year flood plain as identified on the most current Clay County Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency.
 6. a legal description of the property, and locate the same with respect to an original corner of the original survey of which it is a part, and the number of acres being subdivided. All blocks, corners and angles shall be marked in accordance with minimum standards set forth by the Texas Board of Professional Land Surveyors. All corners shall be marked with caps stamped with the surveyor and/or company name.
 7. a dedication, by the developer, of all street, roadways, alleys, easements, parks, conservation easements, and other land intended for public use, and the developer's certification that all parties with any interest in the title to the subject property have joined in such dedication, duly executed, acknowledged and sworn to by said developer before a Notary Public.

STATE OF TEXAS)
)
)
)
 COUNTY OF CLAY)

OWNER'S ACKNOWLEDGMENT
AND DEDICATION

I (we), the undersigned, owner(s) of the land shown on this plat within the area described by metes and bounds as follows:

(Metes and Bounds Description of Boundary)

and designated herein as the _____ subdivision to Clay County, Texas, and whose name is subscribed hereto, hereby Dedicate to the use of the public forever all streets, alleys, parks, water courses, drains, easements, rights-of-way and public places thereon shown for the purpose and consideration therein expressed.

 Owner

Date: _____

8. the following statement shall appear on any plat containing private streets, drives, emergency access easements, recreation areas and open spaces:

NOTE: All private roads (drives and streets) will be signed in a manner that indicates its private status.

CLAY COUNTY SHALL NOT BE RESPONSIBLE FOR MAINTENANCE OF PRIVATE STREETS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS AND OPEN SPACES; AND THE OWNERS SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF PRIVATE STREETS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS AND OPEN SPACES, AND SAID OWNERS AGREE TO INDEMNIFY AND SAVE HARMLESS CLAY COUNTY, FROM ALL CLAIMS, DAMAGES AND LOSSES ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE OBLIGATION OF SAID OWNERS SET FORTH IN THIS PARAGRAPH.

9. the seal and signature of the surveyor responsible for surveying the subdivision and/or the preparation of the plat.

Certification by a Registered Professional Land Surveyor to the effect that the plat represents a survey made by the surveyor and that all the monuments shown thereon actually exists, and that their location, size and material description are correctly shown.

STATE OF TEXAS)
) CERTIFICATE OF SURVEYOR
 COUNTY OF CLAY)

I, the undersigned, a Registered Professional Land Surveyor
 in the state of Texas, hereby certify that this plat is true and
 correct and was prepared from an actual survey of the property
 made under my supervision on the ground.

(Surveyor's Seal) _____
 Registered Professional Land Surveyor

Date: _____

10. a space for the approval of the Commissioners Court of Clay County, Texas.

THE COMMISSIONERS COURT OF CLAY COUNTY, TEXAS ON

_____, 20____

VOTED AFFIRMATIVELY TO ADOPT THIS PLAT AND APPROVE IT FOR
 FILING OF RECORD.

BY: _____
 CLAY COUNTY JUDGE

 COMMISSIONER, PRECINCT 1

 COMMISSIONER, PRECINCT 2

 COMMISSIONER, PRECINCT 3

 COMMISSIONER, PRECINCT 4

ATTEST: _____
 CLAY COUNTY CLERK

11. a space for the approval of a city exercising its extraterritorial authority.
- g. All information listed in item "f" above is considered to be the minimum amount of information needed to assure compliance with this Court Order. Any deviations shall have the written approval of the Clay County Commissioners Court prior to submittal of the final plat.
- h. The Clay County Commissioners Court will review the final plat for its conformance, and place the subdivision on the Commissioners Court Agenda and recommend either approval or denial.
- i. The final plat shall be accompanied by:
 1. a surety bond for construction of streets.
 2. a statement of approval of plans from all conservation districts, municipal utility districts or drainage districts.
 3. a certificate from each Tax Collector of a political subdivision in which the property is located stating that all taxes are paid and not delinquent.
 4. a certificate stating the subdivision's water supply and sewerage system plans have approval from the appropriate State agency or designated authority.
 5. two (2) sets of construction plans.
- j. After the plat has been approved and signed by the Commissioners Court, the plat will be returned to the developer for recording with the County Clerk. The final plat must be recorded within six (6) months of approval by the Commissioners Court. A single six (6) month extension may be granted by the Commissioners Court.
- k. The plat shall contain the following statement under the County's signature block:

"Construction not completed within two (2) years of the recording date shall be subject to current County standards and regulations. The County may require the subdivision be replatted."
- l. Commissioners Court may refuse to approve a plat if it does not meet the requirements prescribed by these rules or if any bond required under these rules is not filed with the County.

m. Prior to the consideration and/or the approval of any plat submitted to the Commissioners Court all applicable fees shall be paid by the developer to the County Treasurer and a receipt or receipts shall be included with the submittal. The following fees have been established by the County to defray all costs associated with but not limited to the review, inspection, maintenance and filing of all plats and documents associated with the development of a subdivision or any part thereof. These fees shall become effective with the passage of this Court Order and will effect all subdivisions not finally approved by the Commissioners Court prior to such passage.

1. Preliminary Plat	\$ 400.00
2. Final Plat (with roads) 10 lots or less add \$50.00 per lot in excess of 10 lots	1,000.00
3. Final Plat (with no roads)	300.00
4. Plat Revision	300.00
5. Plat Revision Notices (per notice fee)	4.00
6. Plat Cancellation	200.00

3. Construction Plans:

All construction plans, drawings and calculations shall be sealed by a Registered Professional Engineer licensed to practice in the state of Texas.

- a. Two (2) sets of all construction plans must be submitted to and approved by the Clay County Commissioners Court, unless a waiver is granted prior to the start of any Construction plans. The construction plans shall consist of:
1. street plans
 2. drainage plans, including outfall channels, storm sewers and inlets design.
 3. plans for water system, if any.
 4. plans for sewage treatment and sewer system, if applicable.
 5. plans for adjustment of utility lines and pipelines.
 6. location and description of all easements.

b. Street construction plans shall show:

1. the plan of the street, in no larger than 1" = 50' scale, showing the location of the proposed surface, ditches and drainage structures within the street right-of-way.
2. the profile of the street in no larger than a 1' = 50' scale horizontal and a 1' – 5' scale vertical.
3. the street grades and elevations.
4. vertical and horizontal curve information.
5. the ditch grades, design flow of water, design depth of water and design velocity of water.
6. typical street sections.
7. the seal and signature of the engineer responsible for the design on all sheets.

c. Drainage construction plans shall show:

1. the plan of the drainage ditches in no larger than a 1" = 50' scale.
2. the profile of the drainage ditches in no larger than a 1" = 50' scale horizontal and a 1" = 5' scale vertical.
3. the ditch grades, design flow of water, design depth of water and design velocity of water.
4. a plan and profile of all culverts under any street with the design flow of water, head-water and tailwater depths and the tailwater velocity.
5. the size of all driveway culverts to carry the design flow of water at each lot in the subdivision when the culvert is installed at the designed ditch grade.
6. typical ditch sections.
7. the seal and signature of the engineer responsible for the design on all sheets.
8. the size of each lot shall be indicated on the final plan in square feet and in acres.

- d. Water construction plans shall show:
1. the location and size of all proposed water lines in relation to the right-of-way or easements in which the lines are to be located.
 2. the location of all appurtenances proposed to be installed.
 3. the minimum depth to which the water lines are to be installed.
 4. the seal and signature of the engineer responsible for the design on all sheets.
- e. Sewer construction plans shall show:
1. the plan of the sewer line in no larger than a 1" = 50' scale, showing the location and the size of all proposed sewer lines in relation to the right-of-way or easements in which the lines are to be located.
 2. the profile of the sewer line in no larger than a 1" = 50' scale horizontal, and a 1" = 5' scale vertical.
 3. the location of all appurtenances proposed to be installed.
 4. the sewer line grades and elevations at all junction points.
 5. the seal and signature of the engineer responsible for the design on all sheets.
- f. All construction plans shall be submitted with the final plat.
- g. Clay County will review the construction plans for their conformance, and return one (1) set of the construction plans to the developer stating:
1. that the plans have been approved.
 2. the changes that will need to be made before the plans will be approved. If any changes are required, the developer shall have the necessary changes made and submit two (2) copies of the corrected plans to the Clay County Commissioners Court. If all necessary changes have been made, Clay County will return one (1) Set of the corrected plans to the developer stating that the plans have been Approved.

4. Water and Septic Requirements

- a. The owner(s) must submit a plan for providing utility service within the proposed subdivision. The proposed water supply should be clearly indicated, i.e., municipal water, rural water supply corporation, privately owned water system, individual well, etc., including location of fire hydrants, if any. All water supplies must be approved by the TNRCC.
- b. The plan for sewage disposal should be clearly indicated, i.e., municipal sewer service, privately owned/organized sewage disposal system, private sewage facilities, etc. If it is the owner's intent that each lot purchaser shall provide private sewage facilities, those facilities must meet the requirements of the Clay County Health Department.

SECTION F SUBDIVISION REQUIREMENTS

1. Roads or Streets

- a. Residential streets shall have a minimum width of right-of-way of sixty feet (60') unless more is needed for drainage purposes. The base course of the roadway section shall be a minimum of twenty feet (20') feet Type A Grade 2 flexible base compacted to ninety-five percent (95%) standard proctor density at a depth of six inches (6"). The subgrade shall be stabilized to a depth of six inches (6") and compacted to ninety-five percent (95%) proctor density.
- b. All roads or streets more than one hundred feet (100') in length shall either be connected at both ends to a dedicated street, or be provided with a turnaround having a minimum radius of forty feet (40') and a minimum right-of-way of sixty feet (60').
- c. All roads or streets shall have a minimum grade of four-tenths percent (0.4%). Grades of more than ten percent (10%) shall only be allowed upon approval of the County.
- d. A proposed subdivision that adjoins or encompasses an existing public street, that does not conform to minimum right-of-way requirements of these regulations, shall provide for the dedication of additional right-of-way along either or both sides of said street so that the minimum right-of-way required by these regulation can be established. If the proposed subdivision abuts only one side of said street, then a minimum of half of the right-of-way shall be dedicated by such subdivision.
- e. Where any portion of a road or street has been dedicated in an adjoining subdivision, adjacent to and along the common property line of the two subdivisions, enough width of right-of-way must be dedicated in the new subdivision to provide the minimum width specified herein.
- f. Roads or streets which are a continuation of any existing road or street shall take the name of the existing road or street.
- g. A cul-de-sac shall have a maximum length of 600 linear feet. (Measured along the centerline).
- h. All roads or streets preferably shall intersect at a ninety degree angle. Where this is not possible, the intersection, on the side of the acute angle, shall be rounded with a curve or a cut-back, but in no case, shall the curve have less than a twenty-five foot (25') radius.

- i. New roads or streets, which are a continuation of an existing road or street, shall be a continuation, without off-set, of the existing road or street.
- j. Where roads or streets in an adjoining subdivision end at the property line of the new subdivision, the said roads or streets shall be continued throughout the new subdivision. Where there are no adjacent connections platted, the roads in the new subdivision shall be a reasonable projection of the roads or streets in the nearest subdivisions.
- k. No decorative squares, trees, "islands", ornamental entrances or any other obstruction to traffic shall be constructed or preserved within the right-of-way of a road dedicated to the public without written permission of the Commissioners Court. If landscaping and/or irrigation is proposed within the right-of-way, the owners shall create a body (municipal utility district, home owners association, neighborhood association, etc.), that will be responsible for the maintenance and liability of the landscaping and/or irrigation system. This body shall have assessment authority to insure the proper funding for maintenance.

2. Drainage and Utility Easements

- a. Utility easements shall be a minimum of ten feet (10') in width, and normally located along a property or lot line. It shall be the duty of the developer to insure that all easements are of the proper width and location to serve the using utility companies.
- b. Utility lines crossing a road shall be installed a minimum of twenty-four inches (24") below the ditch line or a minimum of thirty-six inches (36") below the crown line of the road, whichever is greater. All lines carrying liquid products must be encased in metal or PVC schedule 40 a minimum length of five feet (5)' from ditch line to ditch line.
- c. If new roads are constructed over existing petroleum pipe line crossings, the pipe lines must meet the following requirements:
 - 1. encased pipe must be at least three feet (3') below the deepest proposed ditch grade.
 - 2. non-cased pipe (of extra wall thickness meeting Federal Regulations) must be at least four feet (4') below the deepest proposed ditch.
- d. No road will be accepted for maintenance by Clay County which contains a petroleum pipe line within the right-of-way, other than crossing pipe lines.

3. The County does not provide maintenance for drainage.

- a. The area identified as drainage easement will be subtracted from the raw lot size in determination of acceptable lot size for construction.

b. Drainage easements shall generally be located along the existing drainage way and shall meet the following standards:

1. open channels with top widths from zero feet (0') to fifty feet (50') require top width plus twenty-five feet (25').
2. open channels with top widths greater than fifty feet (50') require top width plus twenty-five feet (25') each side.
3. enclosed pipes require twenty feet (20') minimum width.
4. All easements shall be so designed to allow maintenance equipment to enter the easement and be able to perform the necessary work.

4. Lot Sizes and Building Set-backs

- a. Based on the presence of an on-site sewage facility, the "net" minimum lot size on which development activity will be allowed shall be 1.5 acres. This "net" minimum lot size shall not include any right-of-way, drainage easement, utility easement, or flood plain area.
- b. If water well is present on lot then the minimum size will be 2 acres if an on-site sewage facility is used for sewage disposal.
- c. In the absence of an on-site sewage facility, the County will determine minimum lot size independently.
- d. Side lot line should normally be at a ninety degree angle to the street.
- e. All straight lines shall clearly show the length of the line, and the plat shall show enough information to readily determine the bearing of all lot lines.
- f. All curved lot lines shall clearly show the length of the arc and radius of the curve, or show enough information on the plat to readily determine the radius of the curve.
- g. Building and set-back lines shall be fifty feet (50') from the edge of the right-of-way on all state and federal roads and twenty-five feet (25') on all other roads. Building and set-back lines shall be shown on both the preliminary and final plats. If the above set-back lines differ from those adopted by a municipality with extraterritorial jurisdiction, the set-backs of the municipality shall apply.

5. Flood Plains

- a. Subdivisions that are located in a flood zone as shown on the current Flood Insurance Rate Map (FIRM) for Clay County will have the following requirements:
 1. Permanent type benchmarks shall be set in appropriate locations with the description and elevation shown on the plat. The elevation of the benchmark shall be tied to a benchmark shown on the FIRM panel.

2. a note on the plat stating, "A flood permit will be required from Clay County for any construction in the flood plain."
3. all subdivision proposals shall be consistent with Clay County's Flood Plain Regulations.
4. contours at one foot (1') intervals shall be shown on the plat.
5. the finished floor elevation must be shown for each lot located in the flood plain.
6. the flood plain area of each lot shall be subtracted from the overall lot size to determine minimum lot size.
7. the provision of and maintenance of drainage for the purpose of flood damage reduction on individual private lots is not the responsibility of the County.

SECTION G CONSTRUCTION STANDARDS

1. Mailboxes

- a. Mailboxes shall be set a minimum of three feet (3') from the edge of the roadway driving surface or one foot (1') behind curbs. When placement of the mailbox outside the three foot (3') minimum is not possible, a mailbox of "breakaway design" should be used.
- b. All mailboxes within the County right-of-way shall meet the current TXDOT standards.
- c. Mailboxes in subdivisions must meet Post Office requirements, and must be placed in a manner that does not interfere with the traffic's line of vision.

**SECTION H
DRAINAGE STANDARDS**

1. Culverts

- a. The culvert design shall be sized by a Registered Professional and a map or list containing the size of each pipe shall be attached to the plat. The developer will be held responsible for notifying builders and lot owners of this requirement and ensuring the property sized culvert is installed.

SECTION I
STORM WATER MANAGEMENT

1. Storm Water Discharge Permit

- a. In accordance with the Federal Water Pollution Control Act, 33 U.S.C. Para. 1251-1387 (1990), also known as the Clean Water Act, as amended in 1987 and codified as 40 C.F.R. Part 122, the development shall be required to obtain a storm water discharge permit for construction activity from the United States Environmental Protection Agency (EPA).
- b. Under current regulation, construction activities including clearing, grading and excavation, must be permitted for storm water discharge unless the operations result in the disturbance of less than five acres total land area or areas which are not part of a larger common plan of development. Notice of Intent (NOI) for storm water discharges associated with industrial activity under the National Pollution Discharge Elimination System (NPDES) General Permit with the EPA shall be submitted by the developer at least two (2) days prior to commencement of construction. During construction a copy of the Storm Water Pollution Prevention Plan shall be available on site in accordance with EPA requirements.

SECTION J
CONSTRUCTION AND MAINTENANCE BONDS

1. Construction Bond

- a. All construction shall be complete within two (2) years after approval of final plat in a timely manner, and in accordance with the terms and specifications contained in this Court Order, the developer shall file a Construction Bond, executed by a Surety Company authorized to do business in this state, and made payable to the County Judge of Clay County, Texas, or his successor in office.
- b. The bond amount shall be equal to forty percent (40%) of the estimated cost of construction of roads, streets, street signs, underground utilities, required drainage structure and all other construction.
- c. The construction bond shall remain in full force and in effect until all the roads, streets, street signs, underground utilities, required drainage structures and all other construction in the subdivision have been completed to the satisfaction of the County Engineer, and the construction bond has been released by a Court Order from the Commissioners Court.
- d. In the event any or all of the streets, roads, drainage and drainage structures, as constructed by the owner, fail to meet the requirements of the foregoing specifications, and the said attention in writing by the County Engineer, the unfinished improvements shall be completed at the cost and expense of obligees as provided.

2. Maintenance Bond

- a. To insure roads, streets, street signs, underground utilities, required drainage structures and all other construction are maintained to the satisfaction of the County Engineer, a maintenance bond executed by a Surety Company authorized to do business in this state, and made payable to the County Judge of Clay County, Texas, or his successor in office, shall be substituted for the construction bond at the time of release of said construction bond.
- b. The maintenance bond amount shall be equal to forty percent (40%) of the estimated cost of roads, streets, street signs, underground utilities, required drainage structures and all other construction.
- c. The conditions of the maintenance bond shall be that the owner shall guarantee to maintain, to the satisfaction of Clay County, all of the streets, roads, drainage structures and drainage ditches and channels which have been constructed to specification with construction security released by Court Order from Commissioners Court, in a good state of repair for a period of one year (1) from the date of official release of construction security.

- d. Periodical inspection of roads, streets, street signs, underground utilities, required drainage structures and all other construction for which maintenance security is held, will be made by the County Engineer during the period of liability covered by the maintenance bond. In the event any or all of the roads, streets, street signs, underground utilities, required drainage structures and all other construction are not being maintained in a good state of repair, the owner will be so advised in writing and, if after a reasonable time, he fails or refuses to repair said items, they shall be maintained at the cost and expense of obligees as in said orders provided.
- e. The release of any bond shall be by order of the Commissioners Court. To request a release the developer who posted the bond in question shall present a written request to release said bond. The request shall contain a statement by the engineer responsible for the design of said work stating that he has made an inspection of such improvements and recommends their acceptance by the County. Attached to his letter shall be one (1) set of "as built" drawings showing the work to be accepted for use by the County. The written request of bond release shall be received by Clay County at least fourteen (14) days prior to the next regularly scheduled meeting of Commissioners Court.

3. Final Inspection

- a. The developer, upon completion of drainage, roads, streets and other facilities intended for the use of the public, or purchasers or owners of lots fronting or adjacent there to, shall request from the County a final inspection. The Precinct Commissioner or his designee will inspect the completed work for compliance. The developer will be notified in writing of any work not found in compliance with the Subdivision Regulations.
- b. If substantial patching is required during the two (2) year maintenance period, roads or streets must be resurfaced.

4. Irrevocable Letter of Credit (In Lieu of Bond)

- a. An Irrevocable Letter of Credit may be submitted in lieu of bonds, for the purpose of insuring a developer's promise to construct and maintain the roads and drainage of facilities in a subdivision.
- b. Irrevocable Letters of Credit in lieu of bonds are required under the same conditions as Construction and Maintenance Bonds.

5. Other Security

- a. Any type of security for construction and maintenance other than bonds and Irrevocable Letters of Credit shall be by written request to Clay County, and approval by The County District Attorney's office.

SECTION K SEVERABILITY

1. Severability

- a. If any provision of this Order, or the application thereof, to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Order which can be given effect without the invalid provision or application, and to this end, the provisions of this Order are declared to be severable.

**AN ORDER ADOPTING ALTERNATE SUBDIVISION ORDINANCE -
ALTERNATIVE PROCEDURES FOR PLAT REVISION**


WHEREAS, Clay County wishes to provide for the timely and orderly review of plats and re-plats submitted for their consideration as required by Texas Local Government Code §232.002, and

WHEREAS, Texas Local Government Code §232.0095, provides Clay County the authority to adopt as an alternate to the provisions of Texas Local Government Code §232.009, the provisions in Sections §212.013, §212.014, §212.015 and §212.016 governing plat vacations, re-platting, and plat amendment, THEREFORE,

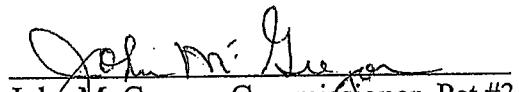
BE IT ORDERED by the Commissioners' Court of Clay County that the alternate procedures for plat revision, as outlined in Texas Local Government Code §232.0095, are hereby adopted.


ADOPTED in the regular session of Clay County Commissioners' Court on this 25th day of October, 2010.

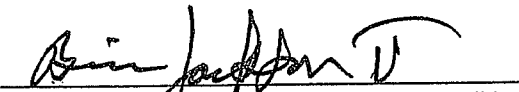
CLAY COUNTY COMMISSIONERS' COURT:


Kenneth Liggett, County Judge


Lindy Choate, Commissioner, Pct. #1


John McGregor, Commissioner, Pct.#3


Johnny Gee, Commissioner, Pct. #2


Brice Jackson, Commissioner, Pct. #4

Attest:


County Clerk

~~subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.~~

~~(f) The commissioners court is not required to give notice by mail under Subsection (c) if the plat revision only combines existing tracts.~~

~~Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 345, Sec. 6, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 129, Sec. 8, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 523, Sec. 9, eff. June 20, 2003.~~

~~Sec. 232.0095. ALTERNATIVE PROCEDURES FOR PLAT REVISION.~~

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

~~(b) As an alternative to the provisions in Section 232.009 governing the revision of plats, a county by order may adopt the provisions in Sections 212.013, 212.014, 212.015, and 212.016 governing plat vacations, replatting, and plat amendment. A county that adopts the provisions in those sections may approve a plat vacation, a replat, and an amending plat in the same manner and under the same conditions, including the notice and hearing requirements, as a municipal authority responsible for approving plats under those sections.~~

~~(c) Instead of the purpose described by Section 212.016(a)(10), an amended plat may be approved and issued by the county to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:~~

~~(1) the changes do not affect applicable county regulations, including zoning regulations if the county has authority to adopt zoning regulations; and~~

~~(2) the changes do not attempt to amend or remove any covenants or restrictions.~~

Added by Acts 2003, 78th Leg., ch. 523, Sec. 10, eff. June 20, 2003.
Amended by:

project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code.

~~(k) A utility may not serve any subdivided land with water utility connection or service under Subsection (j) unless the entity receives a determination that adequate sewer services have been installed to service the lot or dwelling from the municipal authority responsible for approving plats, an entity described by Subsection (b), or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code.~~

~~Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1062, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 18.34, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 404, Sec. 2, eff. Sept. 1, 1999.~~

~~Amended by:~~

~~Acts 2005, 79th Leg., Ch. 708, Sec. 1, eff. September 1, 2005.~~

~~Acts 2009, 81st Leg., R.S., Ch. 1239, Sec. 1, eff. June 19, 2009.~~

Sec. 212.013. VACATING PLAT. (a) The proprietors of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.

(b) If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(c) The county clerk shall write legibly on the vacated plat the word "Vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

(d) On the execution and recording of the vacating instrument, the vacated plat has no effect.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.014. REPLATTING WITHOUT VACATING PRECEDING PLAT. A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

(1) is signed and acknowledged by only the owners of the property being replatted;

(2) is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the municipal authority responsible for approving plats; and

(3) does not attempt to amend or remove any covenants or restrictions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

~~Sec. 212.0145. REPLATTING WITHOUT VACATING PRECEDING PLAT: CERTAIN SUBDIVISIONS. (a) A replat of a part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:~~

~~(1) is signed and acknowledged by only the owners of the property being replatted; and~~

~~(2) involves only property:~~

~~(A) of less than one acre that fronts an existing street; and~~

~~(B) that is owned and used by a nonprofit corporation established to assist children in at-risk situations through volunteer and individualized attention;~~

~~(b) An existing covenant or restriction for property that is replatted under this section does not have to be amended or removed if:~~

~~(1) the covenant or restriction was recorded more than 50 years before the date of the replat; and~~

~~(2) the replatted property has been continuously used by the nonprofit corporation for at least 10 years before the date of the replat.~~

~~(c) Sections 212.014 and 212.015 do not apply to a replat under this section.~~

Added by Acts 1999, 76th Leg., ch. 1130, Sec. 1, eff. June 18, 1999.

~~Sec. 212.0146. REPLATTING WITHOUT VACATING PRECEDING PLAT:~~

~~CERTAIN MUNICIPALITIES. (a) This section applies only to a replat of a subdivision or a part of a subdivision located in a municipality or the extraterritorial jurisdiction of a municipality with a population of 1.9 million or more.~~

~~(b) A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if:~~

~~(1) the replat is signed and acknowledged by each owner and only the owners of the property being replatted;~~

~~(2) the municipal authority responsible for approving plats holds a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard;~~

~~(3) the replat does not amend, remove, or violate, or have the effect of amending, removing, or violating, any covenants or restrictions that are contained or referenced in a dedicatory instrument recorded in the real property records separately from the preceding plat or replat;~~

~~(4) the replat does not attempt to amend, remove, or violate, or have the effect of amending, removing, or violating, any existing public utility easements without the consent of the affected utility companies; and~~

~~(5) the municipal authority responsible for approving plats approves the replat after determining that the replat complies with this subchapter and rules adopted under Section 212.002 and this section in effect at the time the application for the replat is filed.~~

~~(c) The governing body of a municipality may adopt rules governing replats, including rules that establish criteria under which covenants, restrictions, or plat notations that are contained only in the preceding plat or replat without reference in any dedicatory instrument recorded in the real property records separately from the preceding plat or replat may be amended or removed.~~

Added by Acts 2007, 80th Leg., R.S., Ch. 654, Sec. 1, eff. June 15, 2007.

Sec. 212.015. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS.

(a) In addition to compliance with Section 212.014, a replat without

vacation of the preceding plat must conform to the requirements of this section if:

(1) during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

(2) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(b) Notice of the hearing required under Section 212.014 shall be given before the 15th day before the date of the hearing by:

(1) publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and

(2) by written notice, with a copy of Subsection (c) attached, forwarded by the municipal authority responsible for approving plats to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.

(c) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the municipal planning commission or governing body, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the municipal planning commission or governing body, or both, prior to the close of the public hearing.

(d) In computing the percentage of land area under Subsection (c), the area of streets and alleys shall be included.

(e) Compliance with Subsections (c) and (d) is not required for approval of a replat of part of a preceding plat if the area to be

replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 345, Sec. 2 to 5, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 1046, Sec. 3, eff. Aug. 30, 1993.

~~Sec. 212.0155. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS AFFECTING A SUBDIVISION GOLF COURSE.~~ (a) This section applies to land located wholly or partly in the corporate boundaries of a municipality if the municipality:

- (1) has a population of more than 50,000; and
- (2) is located wholly or partly in:
 - (A) a county with a population of more than three million;
 - (B) a county with a population of more than 275,000 that is adjacent to a county with a population of more than three million; or
 - (C) a county with a population of more than 1.4 million:
 - (i) in which two or more municipalities with a population of 300,000 or more are located; and
 - (ii) that is adjacent to a county with a population of more than two million.

(b) In this section:

- (1) "Management certificate" means a certificate described by Section 209.004, Property Code.
- (2) "New plat" means a development plat, replat, amending plat, or vacating plat that would change the existing plat or the current use of the land that is the subject of the new plat.
- (3) "Property owners' association" and "restrictive covenant" have the meanings assigned by Section 202.001, Property Code.
- (4) "Restrictions," "subdivision," and "owner" have the meanings assigned by Section 201.003, Property Code.
- (5) "Subdivision golf course" means an area of land:
 - (A) that was originally developed as a golf course or a country club within a common scheme of development for a

(e), Property Code, are attached, notwithstanding that the application is for a type of plat other than a plat specified in that section.

(n) A plan for development or a new plat application for a subdivision golf course is not considered to provide fair notice of the project and nature of the permit sought unless it contains the following information, complete in all material respects:

- (1) street layout;
- (2) lot and block layout;
- (3) number of residential units;
- (4) location of nonresidential development, by type of development;
- (5) drainage, detention, and retention plans;
- (6) screening plan for adjacent residential properties, including landscaping or fencing; and
- (7) an analysis of the effect of the project on values in the adjacent residential neighborhoods.

(o) A municipal authority with authority over platting may require as a condition for approval of a plat for a golf course that:

- (1) the area be platted as a restricted reserve for the proposed use; and
- (2) the plat be incorporated into the plat for any adjacent residential lots.

(p) An owner of a lot that is within 200 feet of a subdivision golf course may seek declaratory or injunctive relief from a district court to enforce the provisions in this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1092, Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 635, Sec. 1, eff. June 19, 2009.

~~Sec. 212.016.~~ AMENDING PLAT. (a) The municipal authority responsible for approving plats may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

(1) to correct an error in a course or distance shown on the preceding plat;

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

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

(4) to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

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

(6) to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) to correct an error in courses and distances of lot lines between two adjacent lots if:

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

(B) neither lot is abolished;

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

(D) the amendment does not have a material adverse effect on the property rights of the other owners in the plat;

(8) to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

(9) to relocate one or more lot lines between one or more adjacent lots if:

(A) the owners of all those lots join in the application for amending the plat;

(B) the amendment does not attempt to remove recorded covenants or restrictions; and

(C) the amendment does not increase the number of lots;

(10) to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the

subdivision covered by the preceding plat if:

(A) the changes do not affect applicable zoning and other regulations of the municipality;

(B) the changes do not attempt to amend or remove any covenants or restrictions; and

(C) the area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or

(11) to replat one or more lots fronting on an existing street if:

(A) the owners of all those lots join in the application for amending the plat;

(B) the amendment does not attempt to remove recorded covenants or restrictions;

(C) the amendment does not increase the number of lots; and

(D) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 92, Sec. 2, eff. Aug. 28, 1995.

~~Sec. 212.017. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.~~

~~(b) A person has a substantial interest in a subdivided tract if the person:~~

~~(1) has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more;~~

~~(2) acts as a developer of the tract;~~

~~(3) owns 10 percent or more of the voting stock or shares of or owns either 10 percent or more or \$5,000 or more of the fair~~