

SUBDIVISION AND PLATTING: WHAT YOU NEED TO KNOW

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What is a subdivision of land?

- The division of land into 2 or more parts

What is a plat?

- A map representing a tract of land showing the boundaries and location of individual lots, public right-of-way, and easements
- Typically prepared by a surveyor and engineer
- Recorded with the County Clerk after approval

SUBDIVISIONS AND PLATS





WHAT PLATS DO...

- Create legal subdivisions and lots (LGC 212.004)*
- Extension of required utilities
- Dedication of right-of-way and street improvements
- Dedication of public easements (i.e. utility easements)
- Dedication and improvement of public parkland



WHEN ARE PLATS REQUIRED?

- Subdivide land into 2 or more parts (LGC 212.004)*
- Modifications or changes to previously platted land, such as:
 - Reconfigurations of lots
 - Resubdivision of lots
 - Combining lots
 - Additions of land
- Prerequisite for building permits (local regulation)

*A division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated, does not require a plat to subdivide.





CITY LIMITS AND ETJ

- A city can regulate platting:
 - Within the City Limits
 - Within the ETJ
 - Requires an Interlocal Agreement with the County (LGC 242)



TYPES OF SUBDIVISION PLATS

Preliminary / Final
Plat

Minor Plat* (4 or
fewer lots; no need
for streets or
extension of
utilities)

Amending Plat
(corrections, lot line
adjustment, limited
replats)

Replat (creating
new lots, adding
land)

Vacating Plat

Development Plats
(If city has adopted
LGC Ch. 212,
subchapter B)



PRELIMINARY / FINAL PLATS

Used for platting or subdividing unplatted land that requires public improvements (roads, utilities, etc.) or creates more than 4 lots



2 Part Plat process

Preliminary Plat- shows layout and additional information needed to verify subdivision feasibility

Final Plat- shows final layout and is signed and recorded after approval



Approval – Administrative, P&Z, or City Council or both



MINOR PLAT*

Traditionally used for platting or subdividing unplatted land when 4* or fewer lots are being created and not requiring the creation of any new street or the extension of municipal facilities



Approval – Administrative, P&Z, or City Council or both

*HB 3699 removed the specific “minor plat” provision from LGC Ch.212, but replaced it with an allowance for all plats to be administratively approved, approved with conditions, or disapproved.



AMENDING PLAT

Used for amending a recorded plat for one or more of the following purposes:

- to correct an error on a recorded plat (such as scrivener errors);
- to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- to relocate one or more lot lines between one or more adjacent lots;
- to make necessary changes to the preceding plat to create 6 or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - the changes do not affect applicable zoning and other regulations of the municipality;
 - the changes do not attempt to amend or remove any covenants or restrictions; and
 - the area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area; and
- to replat one or more lots fronting on an existing street if:
 - the owners of all those lots join in the application for amending the plat;
 - the amendment does not attempt to remove recorded covenants or restrictions;
 - the amendment does not increase the number of lots; and
 - the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

Approval – Administrative, P&Z, or City Council or both



REPLAT

Used for replating a subdivision or part of a subdivision without vacating the original plat. This can include:

- Resubdivision of land creating new lots
- Addition of unplatted land to a platted lot
- Creation of new streets
- Other plat changes which would not be applicable to an amending plat

Certain replats of residential property require notice and a public hearing, including:

- Residential replats requiring a variance or exception require PH and notice
- Residential replats not requiring a PH, require mailed notice of plat approval
- See LGC 212.015

Approval Authority:

- Administrative*, P&Z, or City Council or Both
- *If a public hearing is required the hearing will need to be held with the P&Z or City Council



Used for vacating
recorded plats

If approved and recorded
returns land to being
unplatted

Vacating plats are very
uncommon

Requires the signature of
all owners of property in
the original subdivision

VACATING PLAT



DEVELOPMENT PLAT

- Cities may choose to adopt an ordinance requiring and regulating development plats
- Used to track development and the extension of public facilities, and can be required for any unplatted land where there is proposed development
- Cannot require both a development plat and a subdivision plat

WHO CAN APPROVE PLATS?

- City Administration
- Planning and Zoning Commission
- City Council
- Combination of Planning and Zoning Commission and City Council



STANDARDS FOR APPROVAL

- Plat approval is not discretionary. A plat **MUST** be approved if:
 - It conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities; **AND**
 - the extension of the municipality and its roads, streets, and public highways within the municipality, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; **AND**
 - It conforms to the city's subdivision regulations.
- A plat is considered **APPROVED** by act of law unless it is denied within 30 days after the date the plat application is filed!



CONDITIONAL APPROVAL & DENIAL

- Conditional approval and denial.

If the City conditionally approves or denies the final plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.

- Applicant response to conditional approval or denial.

After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. Action shall be taken by the City no later than the fifteenth (15th) calendar day after the date the response was submitted.

- City cannot place a deadline on resubmitting against conditional approval or denial.





HAVING TROUBLE REVIEWING IN 30 DAYS?

- Utilize a plat submittal calendar to align with scheduled public meetings.
- Only accept administratively complete applications. Reject incomplete applications.
- Consider allowing for administrative action on all plats; or
- Consider modifying your subdivision process to pull out the technical review of exhibits through a prerequisite process of certification of technical exhibits.



PLAT WAIVERS

Many cities have included in their subdivision ordinance, a relief process for subdivision requirements (plat waivers).

Waiver process should be well defined in the subdivision ordinance including a procedure for processing and specific criteria for granting a waiver.

Due to the unique nature of waiver requests, it is recommended to have P&Z or City Council hear and act on waiver requests.

A best practice is to process the waiver as a separate action from the associated plat.

PLATTING REGULATIONS

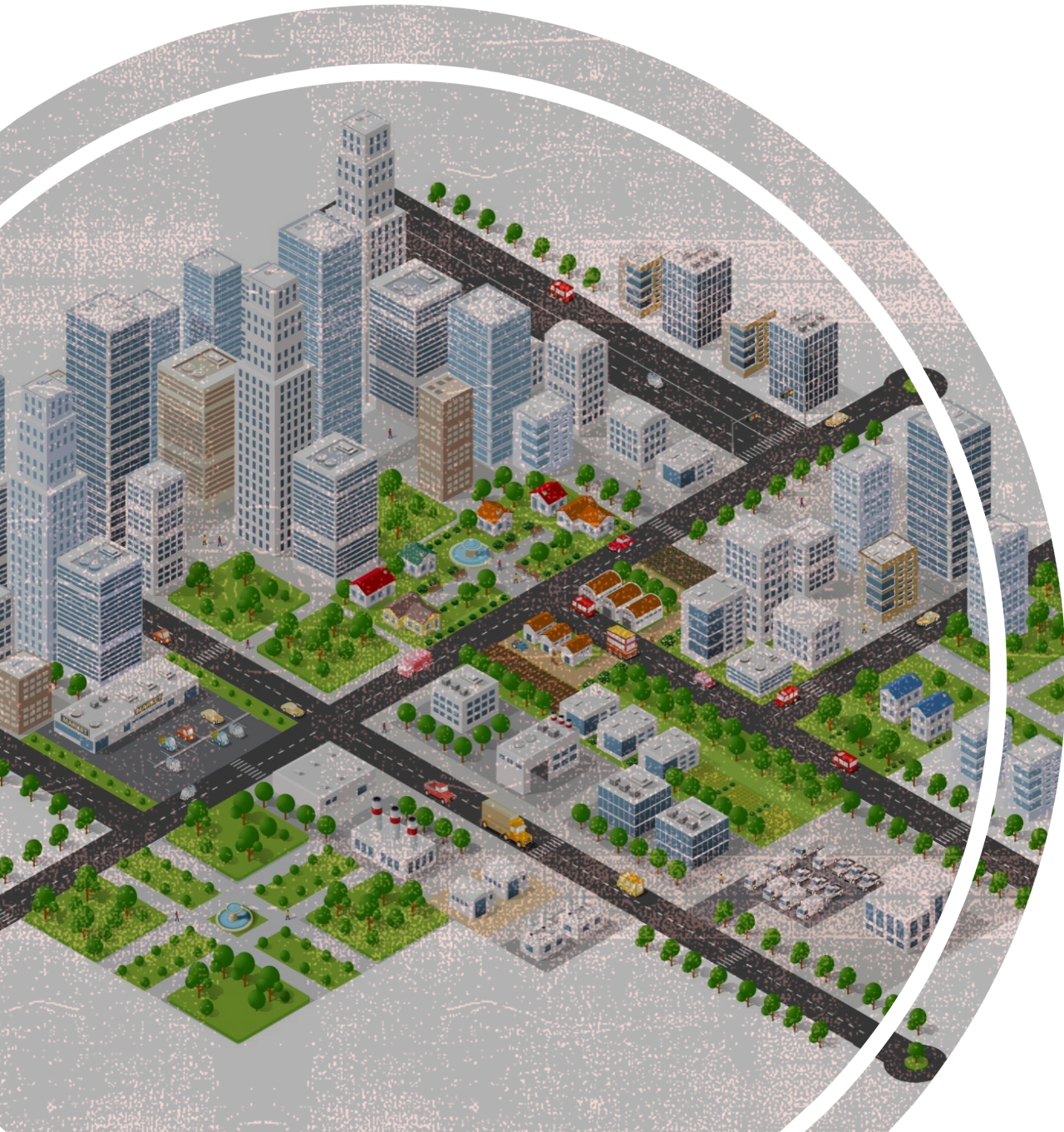
Primary areas that the plat approval process addresses are:

- Procedures for application and approval;
- Lot and block layout, subdivision design;
- Streets, roadways, and access;
- Water, sewer, drainage, electricity and other utilities; and
- Public dedications necessary to support the perpetual operation and maintenance of all of these.

Additional subdivision and platting regulations can include matters such as:

- Tree preservation and mitigation;
- Lighting regulations;
- Parkland dedication;
- Storm water detention;
- MS4 water quality compliance; and
- Infrastructure design and acceptance requirements.





ADDITIONAL ASSOCIATED PLATTING REGULATIONS

- In addition to platting specific regulations, most communities require plats to comply with additional adopted regulations and plans such as:
 - Zoning regulations
 - Lot sizes and dimensions
 - Comprehensive Land Plan
 - Master Throughfare Plan
 - Parks and Trails Plan
 - Floodplain regulations



APPORTIONMENT OF MUNICIPAL INFRASTRUCTURE COSTS

(LGC § 212.904)

If a municipality requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the municipality.



2023 STATE LAW CHANGES

- **HB 3492**
 - Prohibits municipalities and counties from considering the cost of constructing or improving public infrastructure in determining the amount of inspection fees.
 - Requires the municipality or county to use the actual cost to review and process the engineering or construction plan or inspect the infrastructure improvement.
 - Requires the governmental entity to calculate what the actual cost is to provide the inspection and provides entities with a method for determining how to calculate these costs.
 - The City may not require the disclosure of information related to the value or cost of constructing or improving the public infrastructure as a condition of obtaining permit approval or acceptance of the public infrastructure.
 - **Warranty and Maintenance Bond challenges:**
 - Required by most communities
 - Most communities base the bond amount on a % of cost of construction



2023 STATE LAW CHANGES

- **HB 3699**
 - Removes definition and references to “plan”. The resulting impact of removing “plan” is that cities will not be bound to the 30-day shot clock for the approval of development plans which are not plats.
 - Adds authority to adopt a plat submittal calendar.
 - Adds public hearing requirements for adopting roadway specifications.
 - Grants ability for cities to delegate plat approval to officers or employees of the city.
 - City must post a written list of plat application submittal documents on the city’s website.
 - City may not require dedication of land for a future street, unless intended by the owner of the tract (subdivider).



HELPFUL RECOMMENDATIONS

- Maintain and update the City's subdivision regulations
- Require the certification of technical exhibits as a prerequisite for submitting a plat application or allow for administrative approval of plats
- Adopt a plat submittal (and resubmittal) calendar
- Adopt applications and technical item checklists to aid in preparation and review of technical exhibits
- Streamline approval processes



QUESTIONS?

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