



**RULE INTERPRETATION DETERMINATION**

**Determination #:** 2019-004

**Title:** Single-Family and Duplex Replat and Replat Notification Procedures

**Drafted by:** Logan Sparrow, Development Services Manager, Land Entitlements Section,  
Land Development Division

**Rule in Question:** HB 3314 updates on Texas Local Government Code § 212.014 and 212.015, UDC Section 35-403 Notice Provisions, UDC Section 35-440 Replatting Without Vacating Preceding Plat Adjustment

**Department Action:** Modification of relevant sections of the Unified Development Code (UDC) in order to comply with HB 3314 which was passed during the 86<sup>th</sup> Legislature

Michael Shannon, PE, CBO  
Development Services Director

8-21-19  
Date

**Effective Date of Determination:** September 1, 2019

*Please note RIDs often result in direct or related UDC amendments to codify the clarification addressed within the RID. RIDs can also be superseded by subsequent RIDs or UDC amendments. The Development Services Department will remove RIDs from the website when they are no longer valid.*

**Staff Analysis:** The provisions of HB 3314 contained several updates to Texas Local Government Code § 212.014 *Replatting Without Vacating Preceding Plat* and 212.015 *Additional Requirements for Certain Replats*.

Texas Local Government Code has previously required that the approval of a residential or duplex replat that does not vacate the preceding plat shall be approved after a public hearing is held. For residential replats only, the amendments in HB 3314 remove the requirement that a public hearing be held, and thereby allows the City to approve such plats without vacating the previous plat, as long as the following conditions are met:

1. The replat must be signed and acknowledged by only the owners of the property being replatted;
2. The replat must be approved by the municipal authority responsible for approving plats; and
3. The replat does not attempt to amend or remove any covenants or restrictions.
4. The requested residential replat may contain no requests for variances or exceptions.

In addition to the changes above, HB 3314 also altered the notification procedure for residential single-family or duplex replat applications. The UDC, in Section 35-403 *Notice Provisions* does not establish specific notice procedure, but requires notice in accordance with Texas Local Government Code § 212.015. Texas Local Government Code § 212.015(f) and (g) now requires that not later than the 15<sup>th</sup> day after the date the single-family residential or duplex replat with no variances or exceptions is approved by the Director of Development Services, DSD staff must provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipal or county tax roll. Specifically, the notice of approval must include:

1. The zoning designation of the property after the replat; and
2. The telephone number and e-mail address of the Case Manager assigned to the replat application.

If, however, a single-family residential or duplex replat requires any variance or exception it is still required to be considered by the Planning Commission for approval, and notification shall be provided prior to the 15<sup>th</sup> day before the public hearing. The notice shall include:

1. Advertisement of the residential single-family or duplex replat request in a newspaper of general circulation; and
2. Written notice mailed to owners of lots within the original subdivision within 200 feet of the lots to be replatted.

Current Notice Provisions (With Variance/Exception)	Current Notice Provisions (Without Variance/Exception)
<ul style="list-style-type: none"> <li>• Planning Commission Approval</li> <li>• Prior to the 15<sup>th</sup> day before the public hearing:               <ol style="list-style-type: none"> <li>1. Advertisement in newspaper of general circulation</li> <li>2. Mailed notice to owners of original plat and within 200 feet of lots to be replatted</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Planning Commission Approval</li> <li>• Prior to the 15<sup>th</sup> day before the public hearing:               <ol style="list-style-type: none"> <li>1. Advertisement in newspaper of general circulation</li> <li>2. Mailed notice to owners of original plat and within 200 feet of lots to be replatted</li> </ol> </li> </ul>

September 1, 2019 Notice Provisions (With Variance/Exception)	September 1, 2019 Notice Provisions (Without Variance/Exception)
<ul style="list-style-type: none"> <li>• Planning Commission Approval</li> <li>• Prior to the 15<sup>th</sup> day before the public hearing:               <ol style="list-style-type: none"> <li>1. Advertisement in newspaper of general circulation</li> <li>2. Mailed notice to owners of original plat and within 200 feet of lots to be replatted</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Administrative Approval</li> <li>• Within 15 Days following the approval, notice must be sent to owners of property within the original plat within 200 feet of the lots to be replatted that the request was approved</li> <li>• The notice must include the zoning designation at the time the replat was approved and the Case Manager telephone number and email address</li> </ul>

**Staff Position and Interpretation:** It is staff's position that, following the effective date of HB 3314, being September 1, 2019, Development Services Department will direct single-family residential and duplex replat applications which meet all qualifications to the Director of Development Services for approval, rather than the City of San Antonio Planning Commission, in accordance with Texas Local Government Code § 212.014. Furthermore, DSD will follow notice procedures in accordance with the updated Texas Local Government Code § 212.015(f).

**Future UDC Amendments:** As UDC Section 35-403 *Notice Provisions* yields to Texas Local Government Code § 212.015, no UDC amendment is necessary.

UDC Section 35-440 *Replating Without Vacating Preceding Plat* shall be amended as follows:

Sec. 35-440. - Replating Without Vacating Preceding Plat.

(a) Applicability. Pursuant to V.T.C.A. Local Government Code § 212.014, 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 either:

(1) The replat is the only instrument by which any covenants and restrictions therein are recorded, and the replat:

A. Is signed and acknowledged by only the owners of the property being replatted;

B. ~~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 Is approved in one of the following manners:

(1) Residential single-family and duplex replat without any variances or exceptions may be approved by the Director of Development Services without a public hearing before the Planning Commission so long as the notification procedures in Texas Local Government Code § 212.015(f) and (g) are met.

(2) Residential single-family and duplex replat with any variances or exceptions must be considered by the Planning Commission at a public hearing and requires advertisement in a

newspaper of general circulation and mailed notices in accordance with Texas Local Government Code § 212.015(b).

(3) Non residential single-family and duplex replats must be considered by the Planning Commission at a public hearing and requires advertisement in a newspaper of general circulation and mailed notices in accordance with Texas Local Government Code § 212.015(b).

C. Does not attempt to amend or remove any covenants or restrictions.

(2) Or the replat is NOT the only instrument by which any covenants and restrictions therein are recorded, and

A. The replat is signed and acknowledged by each owner and only the owners of the property being replatted;

B. ~~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;~~ Is approved in one of the following manners:

(1) Residential single-family and duplex replat without any variances or exceptions may be approved by the Director of Development Services without a public hearing before the Planning Commission so long as the notification procedures in Texas Local Government Code § 212.015(f) and (g) are met.

(2) Residential single-family and duplex replat with any variances or exceptions must be considered by the Planning Commission at a public hearing and requires advertisement in a newspaper of general circulation and mailed notices in accordance with Texas Local Government Code § 212.015(b).

(3) Non residential single-family and duplex replats must be considered by the Planning Commission at a public hearing and requires advertisement in a newspaper of general circulation and mailed notices in accordance with Texas Local Government Code § 212.015(b).

C. 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;

D. 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

E. The municipal authority responsible for approving plats approves the replat after determining that the replat complies with this chapter and rules adopted under V.T.C.A. Local Government Code § 212.002 and this section in effect at the time the application for the replat is filed.

(b) Initiation. A subdivider wishing to replat a previously approved and recorded plat shall file with the department of planning and development services the proposed replat in accordance with section 35-431.

(c) Completeness Review. The director of planning and development services shall review an application for replat in accordance with subsection 35-432(c) of this chapter. The appellate agency for purposes of completeness review (see subsection 35-402(c) of this chapter) shall be the planning commission.

(d) Decision. Pursuant to V.T.C.A. Local Government Code §§ 212.002, 212.014, ~~and 212.0146,~~ and 212.015 the municipal authority responsible for approving plats shall approve

the replat after determining that the replat complies with this chapter and rules adopted under § 212.002 and this section in effect at the time the application for the replat is filed.

(e) Approval Criteria. The replat shall be approved unless it is inconsistent with any of the criteria set forth in article V of this chapter. The replat shall not be approved if it does not comply with any of the criteria set forth in article V of this chapter.

(f) Subsequent Applications. There is no restriction on subsequent applications for a replat.

(g) Amendments. A replat may be amended by filing a new replat. The replat shall be processed in the same manner as the original replat.

(h) Scope of Approval. Approval of a replat shall be restricted to the matters described in subsection (e) of this section, and shall confer no additional rights upon the applicant.

(i) Recording Procedures. See subsection 35-432(i) of this chapter. The replat may be recorded and is controlling over the preceding plat without vacation of that plat.

(j) Affidavits. Applications for replat approval shall be accompanied by a signed affidavit of no conflict with existing covenants or restrictions. Such affidavit shall be in substantially the same form as the appropriate sample form in section 35-B121.