

Proposed amendments to Chapter 42, the City's land development ordinance

The City of Houston is proposing amendments to Chapter 42 that address:

- I. a change in the State Law affecting subdivision replats and
- II. average lot sizes in the Urban Area (inside Loop 610).

A public hearing is scheduled for the April 24th Planning Commission meeting, 2:30 p.m., City Hall Annex Chambers, 900 Bagby. The following provides a description of the issues and changes proposed.

I. Replat Law

The first proposed amendment is in response to a change in State Law which allows a restriction such as a building line, lot size or type of reserve to be changed if that restriction was established by the recorded plat and is not otherwise restricted in the recorded deed restrictions. The new law allows the City to adopt criteria for how those plat restrictions or covenants are amended. The following information provides a more detailed description and history.

Platting

A plat provides for the subdivision of land that can be legally defined (i.e. Lot 29, block 19 of the Happy Trails subdivision). Subdivision plats are required to show how land will be subdivided. The plat must reflect adequate streets, building lines, property lines and in some instances uses for the project. The plat is checked to assure it complies with the rules established by Chapter 42, of the City's Code of Ordinances.

If land is subdivided by plat, it can then be replatted to further subdivide the existing plat or change the use of the property (i.e. from single-family to multi-family). Typically, a replat will make changes to the layout of lots, reserves, building setback lines and easements.

If a property owner attempted to replat a portion of a subdivision plat, the City's policy was to disapprove the replat if it altered building lines or use restrictions on the face of the plat unless the restrictions were properly amended by all of the property owners within the subdivision.

Change in State law

State of Texas, House Bill 1067 became effective in the fall of 2007. A subdivision or part of a subdivision may be replatted by the owner of the property being replatted and requires a public hearing to be held before Planning Commission. It specifies that

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"covenants and restrictions" are only relevant if they are contained or referenced in a recorded dedicatory instrument (i.e. such as a deed or a set of deed restrictions filed in the Harris County Deed of Records).

The law allows the city to adopt rules governing replats, that stipulate criteria for amending or removing covenants, restrictions, or plat notations not referenced in any dedicatory instrument recorded in the real property records.

Proposed amendment

Under the proposed rules, the City would allow replats based on the following criteria:

A. Property within a subdivision that **does not contain residential lots** restricted to single-family or residential use **may be replatted to any use.**

B. Property within a subdivision that **contains lots restricted to single family residential** or residential may be replatted as follows:

1. A plat restriction limiting the use to residential or single-family may be amended to permit the use of that property only for landscape, parks, recreation, drainage or open space.
2. A plat restriction limiting the use to nonresidential or commercial uses may be amended to permit single-family residential use only if the typical lot size in the replat is not less than the typical lot size of lots in the previous plat; or may be amended to any more specific non-residential or commercial uses. Under very limited circumstances a nonresidential or commercial use may be replatted into multi-family.
3. A plat restriction limiting the use to landscape, parks, recreation, drainage, open space or similar amenity use may be amended to permit only single family residential use if the replat relocates the previous use without decreasing the total area of that use.
4. A plat restriction limiting the use to water plant, wastewater treatment, lift station or similar public utility use may only be amended to landscape, park, recreation, drainage, open space or similar amenity use OR single-family residential use only if the typical lot size in the replat is not less than the typical lot size of lots in the previous plat.

II. **Average Lot Sizes**

The second amendment allows for diverse housing choices within the Urban Area (610 Loop) by allowing a greater mix of lot sizes in a platted subdivision.

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Current rules

A subdivision in an urban area (defined as the area within Loop 610) may provide for a single-family lot size of less than 3,500 square feet, but not less than 1,400 square feet, if the subdivision plat meets the certain development standards. The minimum width of any lot shall be 20 feet.

Proposed amendment

A subdivision in an urban area may provide for a single-family lot size of less than 3,500 square feet, but not less than an average 1,400 square feet for all lots in the subdivision if the subdivision plat meets certain development standards. The minimum width of any lot shall not be less than 15 feet if the average lot width of all lots in the subdivision is equal to or greater than 20 feet.