

# Ord. 23-S-29

**UDC Amendments to Article 3 Boards, Commissions, and  
Committees & Article 12 - Subdivisions**

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# Background

## Texas House Bill HB 3699

Effective September 1<sup>st</sup>, 2023

SECTION 6. Sections 212.0065(a) and (c), Local Government Code, are amended to read as follows:

(a) The governing body of a municipality or the municipal planning commission may delegate to one or more officers or employees of the municipality or of a utility owned or operated by the municipality the ability to approve, approve with conditions, or disapprove a plat [+

~~[(1) amending plats described by Section 212.016,~~

~~[(2) minor plats or replats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities; or~~

~~[(3) a replat under Section 212.0145 that does not require the creation of any new street or the extension of municipal facilities].~~

# Platting Process

## Certification → “Formal”:

- **Preliminary Plat Certification**
  - **Staff Development Team review**
  - **Certification letters**
- **“Formal” Preliminary Plat Application**
  - **Certification letters required**
  - **Fee is assessed**
  - **Shot clock begins**
  - **P&Z date is selected (2<sup>nd</sup> and 4<sup>th</sup> Wednesday)**
  - **Staff prepares agenda, staff report, and presentation**
- **Planning and Zoning Agenda/Individual Discussion Item**
  - **Upon approval applicant is ready for Final Plat process**

# Platting Process

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  - **Staff prepares agenda, staff report, and presentation**
- **Planning and Zoning Agenda/Consent Item**
  - **Upon approval applicant is ready for recordation**
- **Recordation process**
  - **Acquires tax certificates & prepares payment for county**
  - **Gets necessary signatures**
  - **Turns into city for staff to record at county**
  - **Public Improvements?**

# Platting Process

Certification → “Formal”:

- Process is the same for Replat and Vacating Plat
- Process is the same for Minor Plats and Amending Plats, **EXCEPT:**
  - **UDC allows administrative authority for approval i.e. Staff approves these plats currently**
  - **Aligns with previous state law in the Local Government Code (LGC)**

# In Practice...

- **Texas Local Government Code (LGC) Section 212.005(a) states the following:**
  - **"The municipal authority responsible for approving plats must approve a plat or replat that is required to be prepared under this subchapter and that satisfies the requirements of this subchapter."**
- **What does this mean?**
  - **Neither Staff nor The Planning and Zoning Commission can deny a plat if it meets all the requirements**
  - **Bringing plat before the Planning and Zoning Commission is largely procedural**
  - **Staff Development Team ensures all requirements are met prior to presenting to The Commission**

# In Practice...

- Adds time and effort to the development process
  - Strict submittal calendar due to P&Z meeting only 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays.
  - Consideration/action within state mandated shot-clock (30 days)

<i>New Submittal</i>	<i>Resubmittal / Revised Submittal</i>
<b>October 2023</b>	
Tuesday, October 10, 2023	Thursday, October 12, 2023
Tuesday, October 31, 2023	
<b>November 2023</b>	
	Thursday, November 2, 2023
Tuesday, November 28, 2023	Thursday, November 30, 2023
<b>December 2023</b>	
Tuesday, December 5, 2023	

- Required for both Preliminary Plats and Final Plats
- Staff –
  - organizes the agendas
  - Compiles staff reports for each plat
  - Prepares presentations for P&Z meetings
- For all plats (whether they are for individual consideration or consent)

# Proposal

- Staff is proposing to amend the Unified Development Code to give administrative approval authority for all subdivision plats with amendments to the following sections
- **Amendments to Article 3:**
  - **UDC Section 21.3.3 Planning and Zoning Commission**
  - **UDC Section 21.3.5 Administrative Authority**
- **Amendments to Article 12:**
  - **UDC Section 21.12.2 General Provisions**
  - **UDC Section 21.12.8 Preliminary Plat Process**
  - **UDC Section 21.12.10 Final Plat Process**
  - **UDC Section 21.12.13 Replat Process**
  - **UDC Section 21.12.14 Vacating Plat Process**

# Article 3

- UDC Section 21.3.3 Planning and Zoning Commission

2. The Planning and Zoning Commission shall have final approval authority on the following applications:
  - a. Subdivision Master Plan, if forwarded by the City Manager or his/her designee.
  - b. Site Plan; if forwarded by the City Manager or his/her designee.
  - c. preliminary plat; if forwarded by the City Manager or his/her designee.
  - d. final plat; if forwarded by the City Manager or his/her designee.
  - e. amending plat; if forwarded by the City Manager or his/her designee.
  - f. minor plat; if forwarded by the City Manager or his/her designee.
  - g. replat; if forwarded by the City Manager or his/her designee and
  - h. waivers relating to Article 12, Subdivisions.

# Article 3

- UDC Section 21.3.5 Administrative Authority

2. The City Manager or his/her designee shall have ~~final~~ approval authority on the following applications:
  - a. a preliminary plat, as authorized by this UDC and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;
  - b. a final plat, as authorized by this UDC and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;
  - c. a replat, as authorized by this UDC and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;
  - ~~ad.~~ a minor plat, as authorized by this UDC and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;
  - ~~ae.~~ an amending plat, as authorized by this UDC, and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;
  - ~~af.~~ a Certificate of Determination, as authorized by this UDC and LGC Section 212.0115. However, the City Manager or his/her designee may forward the request to the Planning and Zoning Commission for determination;
  - ~~ag.~~ a site plan, as authorized by this UDC. However, the City Manager or his/her designee may forward a site plan to the Planning and Zoning Commission for approval; and
  - ~~ah.~~ other applications as authorized by this UDC.

# Article 12

- UDC Section 21.12.2.I General Provisions

Disapproval of a plat by the City Manager or his/her designee or the Planning and Zoning Commission shall be deemed a refusal by the City to accept the offered dedications shown thereon. Approval of a plat shall not impose any duty upon the City concerning the maintenance or improvement of any such dedicated parts until the proper authorities of the City have actually appropriated the same by entry, use, or improvement. Any such dedication, before or after actual appropriation may be vacated by the City in any manner provided by law.

# Article 12

- UDC Section 21.12.8 Preliminary Plat Process

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a Preliminary Plat shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee shall forward a copy of the plat to other appropriate departments for review and recommendation. ~~After appropriate review, the City Manager or his/her designee shall forward a written recommendation to the Planning and Zoning Commission for consideration.~~
2. ~~*Preliminary Plat Approval.* In accordance with LGC Section 212.0065, the City Manager or his/her designee may approve a preliminary plat. The City Manager or his/her designee shall act on the plat within thirty (30) days after the date a complete application is filed. The City Manager or his/her designee must approve a preliminary plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of this UDC. The City Manager or his/her designee may approve with conditions or deny a preliminary plat that does not satisfy all applicable regulations of this UDC. The City Manager or his/her designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The City Manager or his/her designee or Planning and Zoning Commission, shall act on the plat within thirty (30) days after the date a complete application is filed.~~
3. *Conditional Approval and Denial.* If the ~~Commission~~ City Manager or his/her designee or the Planning and Zoning Commission conditionally approves or denies the 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.
4. *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. The City Manager or his/her designee shall determine

# Article 12

- UDC Section 21.12.8 Preliminary Plat Process

whether to approve or deny the applicant's response to the previously conditionally approved or denied plat is authorized to approve revisions required for conditional approval of the Preliminary Plat. The City Manager or his/her designee may for any reason elect to present the applicant's response for approval to the Planning and Zoning Commission. ~~If forwarded to the Commission by the City Manager or his/her designee, the Planning and Zoning Commission shall determine whether to approve or deny the applicant's previously denied plat or conditionally approved, if forwarded to the commission by the City Manager or his/her designee,~~ Action shall be taken by the City Manager of his/her designee or the Planning and Zoning Commission no later than the fifteenth (15<sup>th</sup>) day after the date the response was submitted.

5. *Acceptance of Preliminary Plat.* Approval of a Preliminary Plat by the ~~Planning and Zoning Commission City Manager or his/her designee or the Planning and Zoning Commission~~ shall be deemed as an expression of the approval of the layout submitted on the plat as a guide to the final design of streets, water, sewer and other required improvements and utilities and to the preparation of a final plat in accordance with the requirements of this UDC.

~~76.~~ Appeal to Planning and Zoning Commission. Any decision to disapprove a plat made by the City Manager or his/her designee may be appealed to the Planning and Zoning Commission.

- D. *Criteria for Approval.* The ~~Planning and Zoning Commission City Manager or his/her designee or the Planning and Zoning Commission~~, in considering final action on a Preliminary Plat, should consider the following criteria:

# Article 12

- UDC Section 21.12.8 Preliminary Plat Process

E. *Expiration and Extension.*

1. *Expiration.* The approval of a Preliminary Plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the ~~Planning and Zoning Commission~~City Manager or his/her designee or the Planning & Zoning Commission, during which period the applicant shall submit and receive approval for a final plat for any portion of the land subject to the Preliminary Plat. If a final plat has not been approved within the two (2) year period, the Preliminary Plat approval, unless extended, shall expire and the plat shall be null and void.
2. *Extension.* At the request of the property owners or their representative, the expiration date for approval of a Preliminary Plat may be extended by the ~~Planning and Zoning Commission~~City Manager or his/her designee ~~Planning and Zoning, if the request is forwarded by the City Manager or his/her designee,~~ for a period not to exceed six (6) months. A Preliminary Plat is not subject to reinstatement following expiration.

# Proposal

- Staff will leave final authority for waivers to the platting requirements in the UDC to the Planning and Zoning Commission
- Staff will also allow any appeals that come from this process to go before the Planning and Zoning Commission as well
- Staff believes these discretionary items would be more appropriate before an appointed body such as the Planning and Zoning Commission
- Staff is also leaving the option in to forward any plat to the Planning and Zoning commission for final authority.

# Recommendation

- The amendments would help eliminate the procedural requirement of bringing plats to the Commission for effectively automatic approval.
- The amendments would make our development process more streamlined, efficient, and cost-effective for both property owners/applicants and for the city.
- Therefore, staff recommends approval of the amendments to the Unified Development Code (UDC) as proposed and discussed.
- On October 11, 2023, the Planning & Zoning Commission conducted a public hearing and made a recommendation of approval as presented

# COMMENTS & QUESTIONS