

SUMMARY OF SUBDIVISION REPLAT APPROVAL

CITY OF SHEPHERD, TEXAS

1. Chapter 16, "Subdivision Regulations," of the City Code of Ordinances ("Code") regulates platting procedures in the City of Shepherd. The replat of a subdivision plat should follow similar procedures in order to satisfy the County Clerk.
2. Submit the replat in a form as required in Sections 16-46 and 16-66 of the Code. NOTE: A surveyor should be able to prepare the replat in a form acceptable to the County Clerk.
3. In order for the replat to be in a form suitable for filing with the County Clerk, the filing requirements found in Section 16-86 through Section 16-88 should be followed.
4. The County Clerk will require certain written certifications on the replat as described in Sec. 16-106 through Sec. 16-113.
5. All residential lots must comply with applicable residential lot requirements found in Sec. 16-158. This includes the requirement at Section 16-158(h) that all lots must have frontage and be adjacent to at least one public street.

NOTE: In addition to the rules set out in the Shepherd Subdivision Ordinance, if the request is for a replat of an existing recorded plat in the City, there must be a public hearing in accordance with Section 212.014 and Section 212.015 of the Texas Government Code.

SUBCHAPTER A. REGULATION OF SUBDIVISIONS

Sec. 212.005. APPROVAL BY MUNICIPALITY REQUIRED. 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 all applicable regulations.

Sec. 212.008. APPLICATION FOR APPROVAL. A person desiring approval of a plat must apply to and file a copy of the plat with the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality.

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.

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.

Prepared by Larry L. Foerster
City Attorney for Shepherd, Texas