

AN ACT

relating to certain subdivision golf courses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0155 to read as follows:

Sec. 212.0155. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS AFFECTING A SUBDIVISION GOLF COURSE. (a) This section applies to land located wholly or partly in the corporate boundaries of a municipality if the municipality:

(1) has a population of more than 50,000; and

(2) is located wholly or partly in a county:

(A) with a population of more than three million;

or

(B) with a population of more than 275,000 that is adjacent to a county with a population of more than three million.

(b) In this section:

(1) "Management certificate" means a certificate described by Section 209.004, Property Code.

(2) "New plat" means a development plat, replat, amending plat, or vacating plat that would change the existing plat or the current use of the land that is the subject of the new plat.

(3) "Property owners' association" and "restrictive covenant" have the meanings assigned by Section 202.001, Property

1 Code.

2 (4) "Restrictions," "subdivision," and "owner" have  
3 the meanings assigned by Section 201.003, Property Code.

4 (5) "Subdivision golf course" means an area of land:

5 (A) that was originally developed as a golf  
6 course or a country club within a common scheme of development for a  
7 predominantly residential single-family development project;

8 (B) that was at any time in the seven years  
9 preceding the date on which a new plat for the land is filed:

10 (i) used as a golf course or a country club;

11 (ii) zoned as a community facility;

12 (iii) benefited from restrictive covenants  
13 on adjoining homeowners; or

14 (iv) designated on a recorded plat as a golf  
15 course or a country club; and

16 (C) that is not separated entirely from the  
17 predominantly residential single-family development project by a  
18 public street.

19 (c) In addition to any other requirement of this chapter, a  
20 new plat must conform to the requirements of this section if any of  
21 the area subject to the new plat is a subdivision golf course. The  
22 exception in Section 212.004(a) excluding divisions of land into  
23 parts greater than five acres for platting requirements does not  
24 apply to a subdivision golf course.

25 (d) A new plat that is subject to this section may not be  
26 approved until each municipal authority reviewing the new plat  
27 conducts a public hearing on the matter at which the parties in

1 interest and citizens have an adequate opportunity to be heard,  
2 present evidence, and submit statements or petitions for  
3 consideration by the municipal authority. The number, location,  
4 and procedure for the public hearings may be designated by the  
5 municipal authority for a particular hearing. The municipal  
6 authority may abate, continue, or reschedule, as the municipal  
7 authority considers appropriate, any public hearing in order to  
8 receive a full and complete record on which to make a decision. If  
9 the new plat would otherwise be administratively approved, the  
10 municipal planning commission is the approving body for the  
11 purposes of this section.

12 (e) The municipal authority may not approve the new plat  
13 without adequate consideration of testimony and the record from the  
14 public hearings and making the findings required by Subsection (k).  
15 Not later than the 30th day after the date on which all proceedings  
16 necessary for the public hearings have concluded, the municipal  
17 authority shall take action on the application for the new plat.  
18 Sections 212.009(a) and (b) do not apply to the approval of plats  
19 under this section.

20 (f) The municipality may provide notice of the initial  
21 hearing required by Subsection (d) only after the requirements of  
22 Subsections (m) and (n) are met. The notice shall be given before  
23 the 15th day before the date of the hearing by:

24 (1) publishing notice in an official newspaper or a  
25 newspaper of general circulation in the county in which the  
26 municipality is located;

27 (2) providing written notice, with a copy of this

1 section attached, by the municipal authority responsible for  
2 approving plats to:

3 (A) each property owners' association for each  
4 neighborhood benefited by the subdivision golf course, as indicated  
5 in the most recently filed management certificates; and

6 (B) the owners of lots that are within 200 feet of  
7 the area subject to the new plat, as indicated:

8 (i) on the most recently approved municipal  
9 tax roll; and

10 (ii) in the most recent online records of  
11 the central appraisal district of the county in which the lots are  
12 located; and

13 (3) any other manner determined by the municipal  
14 authority to be necessary to ensure that full and fair notice is  
15 provided to all owners of residential single-family lots in the  
16 general vicinity of the subdivision golf course.

17 (g) The written notice required by Subsection (f)(2) may be  
18 delivered by depositing the notice, properly addressed with postage  
19 prepaid, in the United States mail.

20 (h) The cost of providing the notices under Subsection (f)  
21 shall be paid by the plat applicant.

22 (i) If written instruments protesting the proposed new plat  
23 are signed by the owners of at least 20 percent of the area of the  
24 lots or land immediately adjacent to the area covered by a proposed  
25 new plat and extending 200 feet from that area and are filed with  
26 the municipal planning commission or the municipality's governing  
27 body before the conclusion of the public hearings, the proposed new

1 plat must receive, to be approved, the affirmative vote of at least  
2 three-fifths of the members of the municipal planning commission or  
3 governing body.

4 (j) In computing the percentage of land area under  
5 Subsection (i), the area of streets and alleys is included.

6 (k) The municipal planning commission or the municipality's  
7 governing body may not approve a new plat under this section unless  
8 it determines that:

9 (1) there is adequate existing or planned  
10 infrastructure to support the future development of the subdivision  
11 golf course;

12 (2) based on existing or planned facilities, the  
13 development of the subdivision golf course will not have a  
14 materially adverse effect on:

15 (A) traffic, parking, drainage, water, sewer, or  
16 other utilities;

17 (B) the health, safety, or general welfare of  
18 persons in the municipality; or

19 (C) safe, orderly, and healthful development of  
20 the municipality;

21 (3) the development of the subdivision golf course  
22 will not have a materially adverse effect on existing single-family  
23 property values;

24 (4) the new plat is consistent with all applicable  
25 land use regulations and restrictive covenants and the  
26 municipality's land use policies as described by the municipality's  
27 comprehensive plan or other appropriate public policy documents;

1 and

2 (5) if any portion of a previous plat reflected a  
3 restriction on the subdivision golf course whether:

4 (A) that restriction is an implied covenant or  
5 easement benefiting adjacent residential properties; or

6 (B) the restriction, covenant, or easement has  
7 been legally released or has expired.

8 (1) The municipal authority may adopt rules to govern the  
9 platting of a subdivision golf course that do not conflict with this  
10 section, including rules that require more detailed information  
11 than is required by Subsection (n) for plans for development and new  
12 plat applications.

13 (m) The application for a new plat under this section is not  
14 complete and may not be submitted for review for administrative  
15 completeness unless the tax certificates required by Section  
16 12.002(e), Property Code, are attached, notwithstanding that the  
17 application is for a type of plat other than a plat specified in  
18 that section.

19 (n) A plan for development or a new plat application for a  
20 subdivision golf course is not considered to provide fair notice of  
21 the project and nature of the permit sought unless it contains the  
22 following information, complete in all material respects:

23 (1) street layout;

24 (2) lot and block layout;

25 (3) number of residential units;

26 (4) location of nonresidential development, by type of  
27 development;

- 1           (5) drainage, detention, and retention plans;  
2           (6) screening plan for adjacent residential  
3 properties, including landscaping or fencing; and  
4           (7) an analysis of the effect of the project on values  
5 in the adjacent residential neighborhoods.

6           (o) A municipal authority with authority over platting may  
7 require as a condition for approval of a plat for a golf course  
8 that:

- 9           (1) the area be platted as a restricted reserve for the  
10 proposed use; and  
11           (2) the plat be incorporated into the plat for any  
12 adjacent residential lots.

13           (p) An owner of a lot that is within 200 feet of a  
14 subdivision golf course may seek declaratory or injunctive relief  
15 from a district court to enforce the provisions in this section.

16           SECTION 2. Section 82.051, Property Code, is amended by  
17 adding Subsection (f) to read as follows:

18           (f) This chapter does not permit development of a  
19 subdivision golf course, as defined by Section 212.0155(b), Local  
20 Government Code, without a plat if the plat is otherwise required by  
21 applicable law. A municipality may require as a condition to the  
22 development of a previously platted or unplatted subdivision golf  
23 course that the subdivision golf course be platted or replatted.

24           SECTION 3. (a) Notwithstanding Chapter 245, Local  
25 Government Code, the change in law made by Section 212.0155, Local  
26 Government Code, as added by this Act, applies to approval of a plat  
27 filed on or after the effective date of this Act or before the

1 effective date of this Act if the approval of a plat filed before  
2 the effective date of this Act is not final. A plat filed and  
3 approved before the effective date of this Act is governed by the  
4 law in effect immediately before that date, and that law is  
5 continued in effect for that purpose.

6 (b) The change in law made by Section 212.0155, Local  
7 Government Code, as added by this Act, does not apply to a lawsuit  
8 filed before the effective date of this Act. That section applies  
9 to land that is the subject of a lawsuit filed before the effective  
10 date of this Act on the date the decision in that lawsuit becomes  
11 final or the suit is otherwise terminated.

12 SECTION 4. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect on the 91st day after the last day of the  
17 legislative session.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 3232 was passed by the House on May 7, 2007, by the following vote: Yeas 138, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3232 on May 25, 2007, by the following vote: Yeas 135, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3232 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 29, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor