

PROPERTY CODE

TITLE 11. RESTRICTIVE COVENANTS

CHAPTER 216. EXTENSION OR AMENDMENT OF RESTRICTIONS IN CERTAIN  
OLDER SUBDIVISIONS

Sec. 216.001. DEFINITIONS. In this chapter:

(1) "Dedictory instrument" has the meaning assigned by Section 202.001.

(2) "Lienholder" and "owner" have the meanings assigned by Section 201.003.

(3) "Older subdivision" means a subdivision described by a recorded map or plat filed before 1947 in the real property records of the county in which the subdivision is located.

(4) "Petition" has the meaning assigned by Section 202.001.

(5) "Property owners' association" means an incorporated or unincorporated homeowners' association, community association, civic club, or similar entity that:

(A) has a membership primarily consisting of the owners of real property in a subdivision; and

(B) supports the enforcement of or promotes the observance of the deed restrictions applicable to all or part of the property located in the subdivision.

(6) "Restrictions" has the meaning assigned by Section 209.002.

(7) "Subdivision" means land that:

(A) consists of multiple sections that have each been divided into two or more parts on a map or plat that has been recorded in the real property records of a county; and

(B) is or was subject to restrictions that:

(i) limit a majority of the land, excluding streets and public areas, to residential use; and

(ii) were recorded in the real property records of the county.

(8) "University" means an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, Education

Code. The term includes a university's affiliate entity, including an endowment instrument, and a unit, division, institution, or agency established to operate as a component part of a university.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. [1558](#)), Sec. 1, eff. June 12, 2023.

Sec. 216.002. FINDINGS AND PURPOSE. (a) The legislature finds that:

(1) the inability of owners to extend or amend property restrictions in older subdivisions in which no zoning regulations apply creates uncertainty in living conditions and discourages investments in those subdivisions;

(2) owners in affected older subdivisions are reluctant or unable to provide proper maintenance, upkeep, and repairs of structures because of the inability to amend the restrictions in response to changing circumstances;

(3) these conditions will cause dilapidation of housing and other structures and cause unhealthful and unsanitary conditions in affected older subdivisions, contrary to the health, safety, and welfare of the public; and

(4) the existence of race-related covenants in restrictions, regardless of their unenforceability, is offensive, repugnant, and harmful to members of racial or ethnic minority groups and public policy requires that those covenants be removed.

(b) The purpose of this chapter is to provide a procedure for extending or amending restrictions for certain older subdivisions, including the removal of any restriction relating to race, religion, or national origin that is void and unenforceable under the United States Constitution or Section [5.026](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. [1558](#)), Sec. 1, eff. June 12, 2023.

Sec. 216.003. APPLICABILITY OF CHAPTER. (a) This chapter applies only to an older subdivision that:

(1) is wholly or partly located in a municipality with a population of two million or more;

(2) had original restrictions that:

(A) for at least one section of the subdivision, did not have an express procedure that provides for successive extensions of the restrictions;

(B) did not have an express procedure for amending the restrictions;

(C) under the common law of this state could not be amended without the unanimous consent of:

(i) all owners in the subdivision; or

(ii) all owners in any section of the subdivision; and

(D) may no longer be valid due to an inability to extend or amend the restrictions; and

(3) has a single property owners' association in which all owners in the subdivision are eligible for membership but in which membership is not mandatory.

(b) This chapter applies to a restriction regardless of the date on which the restriction was created.

(c) This chapter supersedes any contrary requirement for the extension or amendment of a restriction in a dedicatory instrument of a subdivision to which this chapter applies.

(d) This chapter does not apply to:

(1) a residential subdivision described by Section [209.0041\(b\)](#);

(2) a condominium, as defined by Section [81.002](#) or [82.003](#);

(3) any portion of a residential subdivision in which restrictions are no longer enforceable due to nonresidential use; or

(4) property that is owned by a university that was owned by the university on the effective date of this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. [1558](#)), Sec. 1, eff. June 12, 2023.

Sec. 216.004. AMENDMENT OF RESTRICTIONS. (a) For purposes of this chapter, the amendment of restrictions includes the adoption of new restrictions or the modification or removal of

existing restrictions.

(b) An amendment of restrictions under this chapter may not create a property owners' association with mandatory membership. An amendment of restrictions under this chapter that creates a property owners' association with mandatory membership is void.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. 1558), Sec. 1, eff. June 12, 2023.

Sec. 216.005. PROPERTY OWNERS' ASSOCIATION ACTION NOT REQUIRED. Except as provided by Section 216.008, restrictions may be extended or amended under this chapter without action by the property owners' association.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. 1558), Sec. 1, eff. June 12, 2023.

Sec. 216.006. EXTENSION OF RESTRICTIONS. (a) Restrictions may be extended as provided by Section 216.007 or, if a dedicatory instrument provides a procedure for an initial extension of the original restrictions, that procedure may be used for successive extensions of the original restrictions unless the dedicatory instrument expressly prohibits the procedure from being used for successive extensions. If the dedicatory instrument prohibits the procedure from being used to provide for automatic extension of restrictions, the procedure may not be used under this subsection to provide for automatic extension of the restrictions.

(b) A provision in a dedicatory instrument that prohibits the extension of an existing restriction during a certain period does not apply to a successive extension under a procedure for initial extension of original restrictions under Subsection (a).

(c) An extension of restrictions under this chapter may:

(1) be for a period equal to the original term of the restrictions or a shorter period; and

(2) subject to Subsection (a), provide for additional automatic extensions of the term of the restrictions for a period of not more than 10 years for each extension.

(d) A dedicatory instrument that provides for the extension

of restrictions and does not provide for amendment of restrictions may be amended under this chapter, including by amending the provision providing for the extension of the restrictions.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. 1558), Sec. 1, eff. June 12, 2023.

Sec. 216.007. CONSENT REQUIRED FOR EXTENSION OR AMENDMENT OF RESTRICTIONS. (a) A restriction may be extended or amended by a petition or ballots that indicate the written consent of the owners of at least 66.6 percent of the total number of separately owned parcels or tracts in the subdivision, regardless of whether the parcels or tracts contain part or all of one or more platted lots or combination of lots, but not including any parcels or tracts excluded from applicability of this chapter under Section 216.003(d).

(b) A restriction that is extended or amended as described by Subsection (a) applies to all sections of the subdivision other than property excluded from applicability of this chapter under Section 216.003(d) to the extent that the extended or amended restriction expressly applies to the entire subdivision, regardless of whether:

(1) each section has separate restrictions; or

(2) each owner is a member of the property owners' association.

(c) If the original restrictions for a subdivision contain a lower percentage to extend or amend the restrictions, the percentage in the original restrictions controls.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. 1558), Sec. 1, eff. June 12, 2023.

Sec. 216.008. PETITION OR BALLOTS. (a) After receiving written approval of a petition or ballot by the property owners' association, the petition or ballots for the extension or amendment of restrictions must be distributed to the owners in the subdivision by any public method, including:

(1) by United States mail;

(2) by electronic mail or other method of electronic

transmission or publication, including publication on an Internet website;

(3) by door-to-door circulation;

(4) by publication in a newspaper or similar publication of general circulation in the municipality in which the subdivision is located; or

(5) at a meeting of the owners in the subdivision called for the purpose of voting on the proposed extension or amendment.

(b) The petition or ballots may be provided to owners in separate documents. The separate documents are considered to be one instrument.

(c) If a restriction is amended under this chapter, a petition or ballot for a subsequent amendment of the restrictions may not be distributed under Subsection (a) before the fifth anniversary of the effective date of the amended restriction under Section 216.010.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. 1558), Sec. 1, eff. June 12, 2023.

Sec. 216.009. EFFECT OF OWNER'S SIGNATURE. (a) An owner's signature on a petition or ballot conclusively establishes the owner's consent for the purposes of this chapter.

(b) The vote of multiple owners of a lot, parcel, or tract may be reflected by the signature of one of the owners.

(c) After an owner signs a petition or ballot for an extension or amendment of a restriction, the owner's subsequent conveyance of the owner's interest in real property in the subdivision covered by the extension or amendment does not affect the validity of the signature for the purposes of the petition or ballot.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. 1558), Sec. 1, eff. June 12, 2023.

Sec. 216.010. EFFECTIVE DATE OF EXTENSION OR AMENDMENT. An extension or amendment of a restriction under this chapter takes effect on the date the extension or amendment and the petition or

ballots that reflect the written consent of the required number of owners in the subdivision for the adoption of the extension or amendment are filed and recorded in the real property records of the county in which the subdivision is located.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. [1558](#)), Sec. 1, eff. June 12, 2023.

Sec. 216.011. APPLICABILITY OF EXTENSION OR AMENDMENT.

(a) An extension or amendment of a restriction under this chapter is binding on a lot, parcel, or tract in the subdivision as provided by the restriction, regardless of whether the owner or owners of the lot, parcel, or tract consented to the extension or amendment.

(b) Notwithstanding any other law, an owner may not opt out of the applicability to the owner's property of a restriction that is extended or amended under this chapter.

(c) An extension or amendment of a restriction under this chapter is binding on a lienholder or a person who acquires title to property at a foreclosure sale or by deed from a foreclosing lienholder.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. [1558](#)), Sec. 1, eff. June 12, 2023.

Sec. 216.012. UNCONSTITUTIONAL RESTRICTIONS NOT EXTENDED. If a provision in restrictions extended under this chapter is void and unenforceable under the United States Constitution or Section [5.026](#), the restrictions are considered as if the void and unenforceable provision was never contained in the restrictions.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. [1558](#)), Sec. 1, eff. June 12, 2023.

Sec. 216.013. PROCEDURES CUMULATIVE. The procedure provided by this chapter for the extension or amendment of restrictions is cumulative of and not in lieu of any other method by which restrictions of a subdivision to which this chapter applies may be extended or amended.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. [1558](#)), Sec. 1,

eff. June 12, 2023.

Sec. 216.014. CONSTRUCTION OF CHAPTER AND RESTRICTIONS.

(a) This chapter and any petition or ballot made or action taken in connection with an attempt to comply with this chapter shall be liberally construed to effectuate the intent of this chapter and the petition, ballot, or action.

(b) A restriction that is extended or amended under this chapter shall be liberally construed to give effect to the restriction's purposes and intent.

Added by Acts 2023, 88th Leg., R.S., Ch. 691 (H.B. [1558](#)), Sec. 1, eff. June 12, 2023.