

**SEPT. 6, 2022 DRAFT FOR DISCUSSION PURPOSES ONLY
NOT REVIEWED BY THE CITY ATTORNEY
NOT FINAL UNTIL APPROVED BY CITY COUNCIL**

City of Houston, Texas, Ordinance No. 2022 - _____

AN ORDINANCE AMENDING CHAPTER 42 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO SUBDIVISION PLATTING AND DEVELOPMENT; AND AMENDING THE CITY OF HOUSTON CONSTRUCTION CODE, AND CHAPTER 39, SOLID WASTE AND LITTER CONTROL ON RELATED MATTERS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; ESTABLISHING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, in the exercise of its lawful authority, the City of Houston may enact police power ordinances to promote and protect the health, safety, and welfare of the public; and

WHEREAS, the City may, under the provisions of Chapter 212 of the Texas Local Government Code (“Chapter 212”), establish by ordinance general rules and regulations governing subdivision plats and development of land within its corporate limits and area of extraterritorial jurisdiction in order to promote the health, safety, morals or general welfare of the City, and to promote the safe, orderly and healthful development of the City; and

WHEREAS, the City has adopted Chapter 42 of the Code of Ordinances, Houston, Texas (“Chapter 42”) pursuant to this authority, and

WHEREAS, the City Council finds that it is appropriate to modify certain provisions in Chapter 42; and

WHEREAS, the City has adopted other codes impacting property development, including the City of Houston Construction Code and Chapter 39 of the Code of Ordinances regulating solid waste and litter control; and

WHEREAS, the City Planning and Development Department has convened and met with a group of stakeholders as part of the Livable Places Project in reviewing these amendments; and

WHEREAS, the Planning Commission of the City of Houston held a public hearing and comment period on the proposed amendments; and

WHEREAS, on _____2022, the City Council held a public hearing on the proposed amendments; and

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1 **WHEREAS**, the City Council finds that all procedural requirements necessary for
2 the adoption of amendments to Chapter 42 have been satisfied and complied with; **NOW**
3 **THEREFORE**;

4
5 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON,**
6 **TEXAS;**

7 **Section 1.** That the findings contained in the preamble of this Ordinance are
8 determined to be true and correct and are hereby adopted as part of this Ordinance.

9 **Section 2.** That Chapter 42 of the City of Houston Code of Ordinances, Section 42-1,
10 Definitions, the definition of “abutting development” is hereby amended to read as follows:

11 Abutting development shall mean a structure located on property not in use for or
12 restricted to single-family residential use that is either directly abutting or within 30
13 feet of property that is in use for or restricted to single-family residential use or
14 multi-unit residential. ~~A structure that is not a parking garage located on property~~
15 ~~across either a public street that is not an alley or a permanent access easement~~
16 ~~from single family residential lots is not an abutting development regardless of the~~
17 ~~width of the right-of-way.~~

18
19 **Section 3.** That Chapter 42 of the City of Houston Code of Ordinances, Section 42-1,
20 Definitions is hereby amended by adding a definition for “Multi-unit residential (MUR)”:

21 Multi-unit residential (MUR) shall mean the use of property with one or more
22 buildings on a parcel designed for and containing an aggregate of three to eight
23 dwelling units. Multi-unit residential includes multiple duplexes, triplexes,
24 quadplexes, apartments and condominiums.

25
26 **Section 4.** That Chapter 42 of the City of Houston Code of Ordinances, Section 42-
27 271(a), Applicability, is hereby amended to read as follows:

28 (a) The requirements of this division shall apply to all abutting developments
29 within the city except as provided below. An addition to an existing abutting
30 development shall be treated as though only the addition is a new development.
31 ~~For purposes of this division, the height of a structure shall be measured from~~
32 ~~grade to the finished floor of the highest habitable floor or the highest floor of a~~

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1 ~~parking garage.~~ The provisions of section 42-162 relating to reconstruction after
2 casualty shall apply to this division.

3
4 **Section 5.** That Chapter 42 of the City of Houston Code of Ordinances, Section 42-
5 272, Abutting development standards, is replaced in its entirety to read as follows:

6 (a) When an abutting development abuts lots where the majority of the lots
7 abutting the side of the property line are in use for or restricted to single-family
8 residential use or multi-unit residential use and 60% of the length of the
9 property line is comprised of lots in use for or restricted to single-family
10 residential use or multi-unit residential use, and the structure on the abutting
11 development is greater than 65' in height measured from grade to the top of
12 the structure, one of the following distance separation standards shall apply:

13
14 (1) High-rise structures. When an abutting development with a structure
15 greater than 75' in height, as measured from grade to the finished floor of
16 the highest habitable floor, or the highest floor of a parking garage, is
17 contiguous to or takes access from a public street except as provided in
18 section 42-271(b), one of the following is required:

- 19
20 a. For an abutting development that is required to provide a buffer area and
21 is contiguous to or takes access from a collector street, the buffer area
22 shall be 30 feet from the property line of the abutting single-family
23 residential lots or multi-unit residential use.
24 b. For an abutting development that is required to provide a buffer area and
25 is contiguous to or takes access from only local streets, the buffer area
26 shall be 40 feet from the property line of the abutting single-family
27 residential lots or multi-unit residential use.

28
29 No structure or covered parking may be located within the buffer area of an
30 abutting development as defined in subsection (1) above. The buffer area
31 may be used for vehicular access and surface parking. The buffer area shall
32 include a 10' landscape buffer from the property line of the abutting
33 development. The landscape buffer shall meet the following standards:

- 34
35 a. An 8 foot tall solid masonry wall along the property line, or an 8 foot
36 tall wooden fence if a utility easement runs along the property line;
37 b. Grass, shrubs, other vegetation, or non-vegetative permeable cover
38 with no paving or other impervious cover;
39 c. No mechanical equipment may be installed or placed in the
40 landscape buffer area; and
41 d. At least one tree shall be planted or retained, if already in place, for
42 every 20 feet of the length of the side of the property line. The trees
43 shall be arranged throughout the landscape buffer to provide

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1 additional screening to adjacent single-family lots and shall avoid
2 damage to existing plant material. Possible arrangements include
3 planting in parallel, serpentine, or broken rows. Each tree shall have
4 a minimum caliper of 1.5 inches, and be a species listed on the
5 street tree list or parking lot tree list as issued and revised by the
6 director of parks and recreation pursuant to Article V of Chapter
7 33 of this Code. Compliance with this item shall be considered to
8 satisfy the requirements of section 33-128 of this Code.

9 e. The requirement listed in subsection d of this section shall not apply
10 if a utility easement runs along the property line.

11
12 (2) Mid-rise structures. When an abutting development with a structure greater
13 than 65' in height, as measured from grade to the top of the structure, but less
14 than 75' in height measured from grade to the finished floor of the highest
15 habitable floor, or the highest floor of a parking garage, is contiguous to
16 or takes access from a local street, the abutting development shall provide a
17 buffer area of 15 feet from the property line of the abutting single-family
18 residential lots or multi-unit residential uses. No structure or covered
19 parking may be located within the buffer area. The buffer area may be used
20 for vehicular access and surface parking.

21
22 (b) The commission is authorized to grant a variance or special exception to the
23 requirements of this section in accordance with the provisions of sections 42-
24 81, 42-82, and 42-83 of the Code.

25
26 **Section 6.** That the Construction Code of the City of Houston Code, Section 406.4.9 is
27 hereby amended to read:

28 Any part of an abutting a commercial development (structures other than single
29 family residential or small-scale multi-family residential development), as defined
30 by Section 42-1 of the City Code, used as a parking garage structure shall provide
31 an exterior cover for each floor of the structure where parking occurs except for
32 garage faces interior to the site on campus style developments, that directly faces
33 property in use for or restricted to single family residential use. The exterior cover
34 shall be made of an opaque surface or screen mesh material of sufficient rating to
35 block headlights as defined in this Code. The exterior cover shall be at least 5042
36 inches in height measured from the finished floor where parking occurs, and shall
37 not be required on any floor of the parking garage structure which has a finished
38 floor over 50 feet in height from grade. For ramps and other sloped surfaces, the
39 exterior cover shall be positioned to block headlights from emitting any light into
40 adjacent properties in use for or restricted to single family residential use.

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1 Screening must meet the “openness” and ventilation requirements of the city of
2 Houston building code.

3
4 When a parking garage structure abuts a public street or a residential
5 development, one of the followings is required to minimize light trespass from
6 internal garage ceiling fixtures:

7 a. Provide a photometric plan for all internal garage lights demonstrating that no
8 light trespass occurs beyond the property line that exceeds 0.2-foot candles
9 measured at grade on the property line or;

10 b. Provide screening for the entire height of the garage facing street or abutting
11 residential development to prevent light trespass beyond the property line that
12 exceeds 0.2-foot candles measured at grade on the property line. Provide an
13 acknowledging note on the plans for compliance.

14
15 **Section 7.** That the Construction Code of the City of Houston, Section ____, Definitions,
16 is hereby amended by adding the following definitions:

17 *Accent lights* shall mean lights used to accent architectural elements, display or
18 ornamental lights, landscaping, or art lights.

19
20 *Color rendering index (CRI)* shall mean the measurement of how colors look under
21 a light source when compared with sunlight.

22
23 *Correlated color temperature (CCT)* shall mean the gauge of how yellow or blue
24 the color of light emitted from a light source appears.

25
26 *Light trespass* shall mean the excess light produced by a luminaire encroaching
27 unto abutting properties beyond the property line and above the horizontal plane
28 on which it is located and desired, as measured at the property boundary.

29
30
31 **Section 8.** That the Construction Code of the City of Houston, Section 513.1 is hereby
32 amended by adding the following language at the end of the current section to read:

33 All outdoor fixtures must be installed to minimize light trespass and keep
34 unnecessary direct light from shining onto abutting residential properties or public
35 streets. In addition, the light source must be fully enclosed in the fixture housing.
36 On post-top outdoor lighting, the light source must be in the upper housing
37 compartment of the fixture.

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1 Where a commercial development (structures other than single family residential
2 or a multi-unit residential development) includes wall mounted or pole mounted
3 fixtures on a wall or fence that abuts property used for residential purposes or a
4 public street, the following standards shall apply:

- 5 a. All outdoor fixtures must be designed to prevent light trespass beyond the
6 property line that exceeds 0.2-foot candles measured at grade on the
7 property line and provide a photometric plan for compliance. Full cutoff
8 fixtures as defined in the Building Code and house side shields as needed
9 may be used to meet the criteria.
- 10 b. All outdoor fixtures are required to have a maximum Correlated Color
11 Temperature of 3,500 kelvins and a minimum Color Rendering Index of 70.
12 An applicant must provide fixture specifications on the building plans
13 showing compliance.
- 14 c. Accent lights that are directed upwards are exempted from the above
15 requirements, provided the fixtures are fully enclosed in the fixture housing,
16 located and aimed to illuminate only the objects of interest, and are
17 shielded to minimize light spill into the night sky or light trespass onto
18 adjacent residential uses and public streets.
- 19

20 **Section 9.** That Chapter 39, Solid Waste and Litter Control, of the City of Houston
21 Code of Ordinances, is hereby amended by amending Section 39-1, Definitions, by
22 amending the definition of “bulk container” as follows:

23 Bulk container means any container used for the collection ~~and/or~~ disposal of
24 solid waste that is designated and intended:

- 25
- 26 a. To be transported from the premises where it is used by mechanical means
27 with its contents to the dumpsite; or
- 28
- 29 b. To be emptied by mechanical means upon the premises where it is used into
30 a waste transport vehicle.
- 31

32 Without limitation, the term includes the 'dumpster' type containers and roll-offs
33 that are commonly used in multifamily residential, commercial, industrial and
34 public locations. Provided, that the term shall not include the automated
35 service containers that are furnished by the city and similar containers furnished
36 and used by private collection contractors in the course of their collection
37 business.

38

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1 **Section 10.** That Chapter 39, Solid Waste and Litter Control, Article VI, of the City of
2 Houston Code of Ordinances, is hereby amended by amending Section 39-101,
3 Screening Required, by adding the following introductory paragraph:

4 This article shall apply to all new developments located within the City that produce
5 trash and are not serviced by the city of Houston Solid Waste Department. All such
6 developments shall identify location of the service area or the bulk container/dumpster
7 along with screening when applicable on the site plan per Chapter 26-473 and Chapter
8 42-46.

9
10 (a) An owner or lessee of property shall place or maintain a bulk container so that
11 it is not visible from all abutting public streets or the right-of-way, ~~on the~~
12 ~~address side of the property.~~ A bulk container located on a service drive
13 behind or beside a building on said property shall not be deemed visible from
14 the street right-of-way.

15
16 ~~(b) A bulk container shall be deemed to be visible only if it can be seen by any~~
17 ~~person who is standing at grade level on any part of the right-of-way of a~~
18 ~~public street having a right-of-way width of 40 feet or more that adjoins the~~
19 ~~address side of the property on which the bulk container is located.~~

20
21 (b) ~~(c)~~ An owner or lessee of property may utilize a berm, building, fence, wall,
22 gate, ~~shrubbery~~, or a combination thereof, to accomplish the screening of a
23 bulk container from view.

24
25 (c) A dumpster or roll-off placed on new developments located in a service area
26 between a building and an abutting residential property require a minimum 8
27 foot high solid fence or screen between the property line and the dumpster.

28 (d) A dumpster or roll-off placed on new developments that are located between
29 a building and a public street require minimum 6' high solid fence to screen
30 the dumpster from public view. A dumpster housed inside the building is
31 exempt from this requirement.

32
33 **Section 11.** That Chapter 39, Solid Waste and Litter Control, Article VI, of the City of
34 Houston Code of Ordinances, is hereby amended by amending Section 39-103 to rename
35 it as "Exceptions".

36 Section 39-103. ~~Scope.~~ Exceptions.

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1 This article shall not apply to a bulk container situated upon property that is owned
2 and maintained by a public school district or a private school.

3
4 **Section 12.** That except as herein provided, all other provisions in the Code of
5 Ordinances of the City of Houston, Texas, remain in full force and effect.

6 **Section 13.** That the City Attorney is hereby authorized to direct the publisher of the
7 Code of Ordinances, Houston, Texas, (the “Code”) to make such nonsubstantive changes
8 to the Code as are necessary to conform to the provisions adopted in this Ordinance, and
9 also to make such changes to the provisions adopted in this Ordinance to conform them
10 to the provisions and conventions of the published Code.

11 **Section 14.** That, if any provision, section, subsection, sentence, clause or phrase of
12 this Ordinance, or the application of same to any person or set of circumstances, is for
13 any reason held to be unconstitutional, void or invalid, the validity of the remaining
14 portions of this Ordinance or their applicability to other persons or sets of circumstances
15 shall not be affected thereby, it being the intent of the City council in adopting this
16 Ordinance that no portion hereof or provision or regulation contained herein shall become
17 inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other
18 portion hereof, and all provisions of this Ordinance are declared to be severable for that
19 purpose.

20 **Section 15.** That there exists a public emergency requiring that this Ordinance be
21 passed finally on the date of its introduction as requested in writing by the Mayor;
22 therefore, this Ordinance shall be passed finally on such date and shall take effect on
23 12:01 a.m. on _____, 2022.

24

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1 **PASSED AND ADOPTED** this _____ day of _____, 2022.

2 **APPROVED** this _____ day of _____, 2022.

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Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of this foregoing Ordinance is _____, 2022.

City Secretary

Prepared by Legal Dept. _____
KM:es 09/1/22 Senior Assistant City Attorney
Requested by Margaret Wallace Brown, Director, Planning and Development Department
L.D. File No. 612100015001