

**SEPT. 29, 2022 PLANNING COMMISSION DRAFT FOR REVIEW 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 following definitions as follows:

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

19
20 *Buffer area* shall mean the area measured from the property line of lots or tracts in
21 use for or restricted to single-family residential use or multi-unit residential use as
22 required by division 8 of article III of this chapter.

23
24 *Campus-style development* shall mean an integrated development of commercial
25 or multifamily structures, or a combination thereof, located on a single building
26 site, under common ownership or reciprocal agreement for parking, access
27 easements, or other shared interests.

28 *High-rise* shall mean a structure greater than 75' in height measured from grade
29 to the finished floor of the highest habitable floor or the highest floor of a parking
30 garage.

31 *Mid-rise* shall mean a structure between 65' and 75' in height measured from
32 grade to the top of the structure, but less than the high-rise.

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1 Multi-unit residential (MUR) shall mean the use of property with one or more
2 buildings on a tract designed for and containing an aggregate of three to eight
3 dwelling units. Multi-unit residential includes multiple duplexes, triplexes,
4 quadruplexes, apartments and condominiums.
5

6 **Section 3.** That Chapter 42 of the City of Houston Code of Ordinances, Section 42-
7 271(a), Applicability, is hereby amended to read as follows:

8 (a) The requirements of this division shall apply to all abutting developments
9 within the city except as provided below. An addition to an existing abutting
10 development shall be treated as though only the addition is a new development.
11 ~~For purposes of this division, the height of a structure shall be measured from~~
12 ~~grade to the finished floor of the highest habitable floor or the highest floor of a~~
13 ~~parking garage.~~ The provisions of section 42-162 relating to reconstruction after
14 casualty shall apply to this division.
15

16 **Section 4.** That Chapter 42 of the City of Houston Code of Ordinances, Section 42-
17 272, Abutting development standards, is replaced in its entirety to read as follows:

18 (a) An abutting development shall provide a buffer area that complies with this
19 section, from each property line of the abutting development where both the
20 majority of the lots within 30 feet of the property line and 60% or more of the
21 lots abutting the property line are in use for or restricted to single-family
22 residential use or multi-unit residential use. The buffer area abutting the
23 property lines shall be:
24

25 (1) For abutting developments that propose to construct a High-rise:

26 a. 40' if the abutting development is contiguous to or takes access from
27 only local streets; or

28 b. 30' if the abutting development is contiguous to or takes access from
29 a collector street.

30 (2) For abutting developments that propose to construct a Mid-rise, the buffer
31 area shall be 15' when contiguous to or take access from only a local street

32 (3) For abutting developments proposing structures less than 65' in height, no
33 buffer area is required.

34 (b) Standards for buffer areas shall be as follows:

35 (1) No structure or covered parking may be located within the buffer
36 area. The buffer area may be used for vehicular access and surface parking.

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1 (2) The buffer area for a high-rise shall include a ten foot (10')
2 landscape buffer from the property line of the abutting development, which
3 shall satisfy the landscape buffer requirements of Section 33-128 of this
4 Code, for that property line.

5 (3) All landscape buffers shall include:

- 6 a. An 8' tall solid masonry wall along the property line, or an 8 foot tall
7 wooden fence if a utility easement runs along the property line;
8
9 b. Grass, shrubs, other vegetation, or non-vegetative permeable cover
10 with no paving or other impervious cover within the landscape buffer;
11
12 c. No mechanical equipment; and
13
14 d. At least one tree, planted or preserved, for every 20 feet of the length
15 of the side of the property line. The trees shall be arranged throughout
16 the landscape buffer to provide additional screening to adjacent single-
17 family lots and avoid damage to existing plant material. Possible
18 arrangements include planting in parallel, serpentine, or broken rows.
19 Each tree shall have a minimum caliper of 1.5 inches, and be a
20 species listed on the street tree list or parking lot tree list issued and
21 revised by the director of parks and recreation pursuant to Article V
22 of Chapter 33 of this Code.

23
24 (c) The commission is authorized to grant a variance or special exception to the
25 requirements of this section in accordance with the provisions of sections 42-
26 81, 42-82, and 42-83 of the Code.
27

28 **Section 5.** That the Construction Code of the City of Houston Code, Section 406.4.9 is
29 hereby amended to read:

30 Any part of an ~~abutting~~ a commercial or multi-family development as ~~defined by~~
31 ~~Section 42-1 of the City Code,~~ used as a parking garage structure shall provide an
32 exterior cover for each floor of the structure where parking occurs except for
33 garage faces interior to the site on campus style developments, that directly faces
34 ~~property in use for or restricted to single family residential use.~~ The exterior cover
35 shall be made of an opaque surface or screen mesh material of sufficient rating to
36 block headlights as defined in this Code. The exterior cover shall be at least ~~50~~42
37 inches in height measured from the finished floor where parking occurs, ~~and shall~~
38 ~~not be required on any floor of the parking garage structure which has a finished~~
39 ~~floor over 50 feet in height from grade.~~ For ramps and other sloped surfaces, the
40 exterior cover shall be positioned to block headlights from emitting any light into
41 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 6.** 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 Luminaire shall mean the entire construction around a light source, including the
31 lamp mounting, holder, reflector, shade, or glass cover.

32
33
34 **Section 7.** That the Construction Code of the City of Houston, Section 514 is hereby
35 amended by adding a new subsection 514.XX to read:

36 All outdoor fixtures on commercial and multi-family developments must be installed
37 to minimize light trespass and keep unnecessary direct light from shining onto
38 abutting residential properties or public streets. In addition, the light source must

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1 be fully enclosed in the fixture housing. On post-top outdoor lighting, the light
2 source must be in the upper housing compartment of the fixture.

3
4 Where a commercial or multi-family development includes wall mounted or pole
5 mounted fixtures on a wall or fence that abuts property used for residential
6 purposes or a public street, the following standards shall apply:

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

21
22 **Section 8.** That Chapter 39, Solid Waste and Litter Control, of the City of Houston
23 Code of Ordinances, is hereby amended by amending Section 39-1, Definitions, by
24 amending the definition of “bulk container” as follows:

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

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

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

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1 **Section 9.** 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 street the right-of-ways, ~~on the address~~
12 ~~side of the property.~~ A bulk container located on a service drive behind or
13 beside a building on said property shall not be deemed visible from the public
14 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 10.** 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 39-102 to rename
35 it as "Offenses and Defenses," and to clarify Section 39-102(b)(4) to read as follows:

36 (a) *Offenses.* It shall be unlawful for any person to:
37 (1) Fail to comply with section 39-101 of this Code.

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- 1 (2) Place or cause to be placed a bulk container on private property
2 without first obtaining the permission of the owner or person in charge of
3 the property.
4 (3) Fail to maintain screening as required under this article.
5 (b) *Defenses*. It is a defense to prosecution under subsection (a) above that:
6 (1) The bulk container is in daily actual use, exclusive of weekends,
7 holidays, and inclement weather days, for the purpose of disposing of
8 waste generated by the demolition or construction, or both, of
9 improvements on the property upon which the bulk container is situated
10 and that all building permits required for the work have been obtained.
11 (2) The bulk container was placed by or upon written authority of the
12 director on a temporary basis for a neighborhood clean-up campaign or
13 similar temporary purpose.
14 (3) The bulk container is used exclusively for the collection of recyclable
15 materials.
16 (4) On a development site that was approved prior to [the effective date of
17 this Ordinance]¹ There is inadequate space to locate the bulk container
18 upon the property in a manner that complies with section 39-101 of this
19 Code. ...
20

21 **Section 11.** That Chapter 39, Solid Waste and Litter Control, Article VI, of the City of
22 Houston Code of Ordinances, is hereby amended by amending Section 39-103 to rename
23 it as “Exceptions”:

24 Section 39-103. ~~Scope.~~ Exceptions.
25 This article shall not apply to a bulk container situated upon property that is owned
26 and maintained by a public school district or a private school.
27

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

30 **Section 13.** That the City Attorney is hereby authorized to direct the publisher of the
31 Code of Ordinances, Houston, Texas, (the “Code”) to make such non-substantive
32 changes to the Code as are necessary to conform to the provisions adopted in this

¹ The City Secretary is instructed to insert the effective date of this Ordinance.

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1 Ordinance, and also to make such changes to the provisions adopted in this Ordinance
2 to conform them to the provisions and conventions of the published Code.

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

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

16
17 **PASSED AND ADOPTED** this _____ day of _____, 2022.

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

19
20
21
22
23 _____
24 Mayor of the City of Houston

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

27

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City Secretary

Prepared by Legal Dept. _____
KM:es 09/26/22 Senior Assistant City Attorney
Requested by Margaret Wallace Brown, Director, Planning and Development Department
L.D. File No. 612100015001