

City of Houston, Texas, Ordinance No. 2017- 151

AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO OFF-STREET PARKING AND LOADING; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, the City of Houston, Texas (the "City") has established rules and regulations for parking that are codified in Chapter 26 of the Code of Ordinances, Houston, Texas ("Chapter 26"); and

WHEREAS, the City Council finds that it is necessary and appropriate to amend Chapter 26, Article VIII, related to procedures and requirements for parking in the City; and

WHEREAS, on December 15, 2016, the Planning Commission held a public hearing on the proposed amendments to Chapter 26 and voted to recommend the proposed amendments to the City Council for consideration and approval; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

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

Section 2. That the first sentence of Section 26-4 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"The parking official has responsibility for the enforcement of this chapter, with the exception of article VIII, which shall be enforced by the director of the planning and development department or the director's designee."

Section 3. That Item (1) of Section 26-4 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(1) Supervise and be responsible for the collection of revenue from and the maintenance of on-street parking meters and any city-owned and city-maintained public off-street parking meters authorized under this chapter."

Section 4. That Section 26-471 of the Code of Ordinances, Houston, Texas, is hereby amended by adding the following sentence at the end of Subsection (a):

"The director shall have the authority to enforce penalties for violations of this article."

Section 5. That Subsection (b) of Section 26-471 of the Code of Ordinances, Houston, Texas, is hereby amended by inserting a new Item (4) that reads as follows and renumbering the subsequent Items accordingly:

"(4) The modification of a parking facility that results in the elimination of any parking space, loading berth, or bicycle space otherwise required by this article;"

Section 6. That Subsection (c) of Section 26-471 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(c) This article does not apply to the construction or alteration of a temporary classroom building for a public school if the director reviews the development plat and other relevant information and determines that:

- (1) There is a reasonable likelihood that the construction necessitating a temporary classroom building will not continue for more than five years; and
- (2) Construction or alteration of the temporary classroom building will enable the public school to comply with state law respecting student/teacher ratios."

Section 7. That Section 26-472 of the Code of Ordinances, Houston, Texas, is hereby amended by adding new definitions of the terms *business day* and *neighboring property owner*, which shall be inserted in alphabetical order among the existing provisions of that Section, and amending the definition of the term *neighborhood restaurant*, which definitions shall read as follows:

"*Business day* means any day of the week except for Saturday, Sunday, or any other day on which department offices are closed."

“Neighboring property owner means an individual, group, or entity listed on the current appraisal district records as the owner of record for a lot or tract, as those terms are defined in section 42-1 of this Code, that is within 800 feet of the boundary of the lot or tract for which an administrative modification or variance is requested.”

“Neighborhood restaurant means a restaurant that does not have a drive-through facility and that is greater in size than 3,000 square feet of GFA plus 15% of GFA used as outdoor decks, patios and seating areas, but less than or equal to 4,500 square feet of GFA plus 15% of GFA used as outdoor decks, patios and seating areas. If a neighborhood restaurant increases in size to greater than 4,500 square feet of GFA plus 15% of GFA used as outdoor decks, patios and seating areas, then no part of the building or outdoor decks, patios and seating areas shall continue to be considered a neighborhood restaurant.”

Section 8. That Division 1 of Article VIII of Chapter 26 of the Code of Ordinances, Houston, Texas, is hereby amended by adding new Sections 26-477 and 26-478 to read as follows:

"Sec. 26-477. Fees.

The director may, from time to time, with the assistance of the department of finance, pursuant to city policies and procedures, prepare and submit for city council approval revisions to the fees that shall be paid by an applicant for services performed by the department in accordance with the provisions of this article. The fees approved under this provision shall be included in the city fee schedule. Payment of any applicable fees when due is a condition of the processing of any application under this article.

Sec. 26-478. Time for submittal.

(a) The director shall maintain on the department website an annual calendar approved by the commission that details the time for submittal for each type of application established by this article that requires approval by the commission. The calendar shall include:

- (1) The name of the application type and corresponding section in this article;
- (2) The submittal period, including the date and time by which an applicant must file a complete application with the department; and

- (3) The corresponding date of the regularly scheduled meeting of the commission where a complete application will first be considered by the commission following the submittal period, as applicable.
- (b) Each year, on or before the first regularly scheduled meeting of the commission in December, the commission shall adopt a schedule for the next calendar year that meets the following criteria:
 - (1) The schedule outlined in the calendar ensures the timely and expeditious consideration of a complete application submitted by an applicant;
 - (2) The schedule outlined in the calendar creates regular and predictable periods of time during which an applicant may file a complete application with the department; and
 - (3) The schedule outlined in the calendar establishes a reasonable time period for the director to perform the administrative procedures, consider and review the application, and fulfill the notification requirements of this article, as applicable."

Section 9. That Item (1) of Subsection (a) of Section 26-499 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- "(1) The off-site parking facilities are located less than 500 feet from the tract where the use classification is located except as provided for in items (2) and (3) of this subsection;"

Section 10. That Section 26-503 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting Item (3), inserting the word *and* at the end of Item (2), and renumbering the Item (4) as Item (3).

Section 11. That Division 2 of Article VIII of Chapter 26 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 26-504 to read as follows:

"Sec. 26-504. Administrative modification of parking requirement.

(a) The director is authorized to approve a reduction of up to five parking spaces for an existing use classification that proposes an alteration that meets the application requirements of this section. To qualify for an administrative modification under this section, the applicant shall:

- (1) File an application in the form prescribed by the director;
- (2) Pay the non-refundable fee set forth for this provision in the city fee schedule and all costs associated with the notice provisions of this section; and
- (3) Provide documentation regarding the current and anticipated demand for parking spaces as a result of the alteration, including evidence or data in studies relating to the proposed use or unique parking characteristics of the use classification.

(b) Upon receipt of a complete application pursuant to subsection (a) of this section, the director shall:

- (1) Within five business days, post a copy of the application materials on the department website and maintain a copy of the application on the website until the director approves or denies the application;
- (2) Give notice of the request by first class mail to neighboring property owners;
- (3) Give notice of the request by electronic mail to the district council member in whose district use classification is located; and
- (4) Give notice of the request by electronic mail to each neighborhood association registered with the department in whose area the use classification is located.

(c) The director shall establish a formal process for the community to submit comments to the department regarding the request. The comment period shall be not less than 30 days after the notice to neighboring property owners has been placed in the mail pursuant to this section. The director shall review the comments received prior to consideration of the administrative modification.

(d) The director shall approve a modification under this section only if the director finds that the modification meets all of the following criteria:

- (1) The documentation supplied by the applicant supports the approval of a modification;
- (2) The number of parking spaces is sufficient to meet the anticipated change in the demand for parking spaces as result of the alteration to the use classification;
- (3) The approval of the modification is not likely to cause substantial harm or spillover parking into adjacent properties or streets within an 800-foot radius of the boundary of the property for which an administrative modification is requested;
- (4) The modification is not likely to be injurious to public health, safety, and welfare; and
- (5) The modification is consistent with the intent and general purposes of this article.

(e) On or before the fifteenth day after the close of the public comment period or the date of the most recent submittal of documentation by the applicant, whichever date is longer, the director shall inform the applicant, in writing, whether the director approved the modification.

(f) The director shall not grant at any time an administrative modification under this section to any use classification that was previously granted a variance pursuant to division 5 of this article.

(g) The maximum reduction in the number of parking spaces authorized under this section shall not exceed five parking spaces for any use classification.

(h) The director shall maintain a list of approved administrative modifications on the department website."

Section 12. That Section 26-511 of the Code of Ordinances, Houston, Texas, is hereby amended by replacing Items (2), (3) and (4) with a new Item (2) that reads as follows and renumbering the subsequent Sections accordingly:

"(2) Payment for all costs, as set out in the city fee schedule, associated with the notice provisions of this division;"

Section 13. That Sections 26-561 and 26-562 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

"Sec. 26-561. Variance application procedure.

(a) An applicant may submit an application to the department to request variance from the requirements of this article. An application for a variance shall include:

- (1) A completed application in the form prescribed by the director; and
- (2) Be accompanied by the non-refundable fee set forth for this provision in the city fee schedule and a payment for all costs associated with the notice provision of this division.

(b) The director shall review the application for completeness. If the director determines that an application is incomplete, the application shall be returned to the applicant. Within seven days after the date that the director accepts a completed application, the director shall forward a copy of the application to the building official and the traffic engineer who shall make a recommendation to the director regarding the proposed variance.

Sec. 26-562. Notification of application for a variance.

(a) The director shall give notice of the variance request by first class mail to neighboring property owners not later than 20 days before the date of the first meeting at which the commission will consider the application.

(b) The director shall notify each neighborhood association registered with the department in whose area the property for which the requested variance is located by electronic mail or first class mail as soon as reasonably possible before the first meeting at which the commission will consider the application.

(c) The department shall give notice to each district council member in whose district the property for which the requested variance is located by electronic mail message as soon as reasonably possible before the first meeting at which the commission will consider the application.

(d) The applicant shall give notice by posting at least one sign on the property for which the variance is sought not less than 20 days before the date of the meeting at which the commission will first consider the application. At least one sign shall face each street bordering the tract

for which the variance is sought, provided, however, that if more than four signs would be required to be posted, the applicant may request the director to approve an alternate number and location of signs. The director shall approve an alternative to the number and location of the signs required by this subsection in excess of four upon determining that the alternative will provide maximum visibility and satisfy the objectives of this section without unduly burdening the applicant. Each sign shall be a minimum of four by eight feet in size and shall be posted no more than 15 feet from the public right-of-way. Each sign shall face and be clearly legible from the public right-of-way. The applicant shall use reasonable efforts to maintain each required sign on the tract until the close of the meeting at which the commission acts on the application. The sign shall provide the following information:

- (1) The address of the building or tract for which the variance is sought;
- (2) The date, time, and place of the meeting at which the commission will next consider the application for variance, updated to reflect any changes in the date, time, and place of the meeting, including if the applicant's variance request is deferred, continued, or otherwise postponed by the commission;
- (3) The proposed use classification of the building or tract;
- (4) If the proposed use classification of the building is a class 7 use classification under section 26-492 of this Code, the sign shall indicate the tract may contain valet parking;
- (5) A telephone number of the applicant to call for additional information; and
- (6) A telephone number and e-mail address of the department to contact for additional information."

Section 14. That of Section 26-582 of the Code of Ordinances, Houston, Texas, is hereby amended by amending Subsection (b) and adding a new Subsection (c) to read as follows:

"(b) All parking and loading facilities shall be maintained by the property owner to assure desirability and usefulness of the facility. Such facilities shall be maintained free of refuse, debris or other accumulated

matter and shall at all times be available for the off-street parking or loading use for which they are required or intended.

(c) A parking space shall not be in tandem unless the tandem parking space is reserved for use by occupants of the same residential unit to which the space is in tandem."

Section 15. That Section 26-583 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 26-583. Design standards for bicycle spaces and bicycle racks.

(a) A bicycle space required by this article shall:

- (1) Be located on the same tract as the building or tract it is being provided for, except when an application for an encroachment permit has been approved by the traffic engineer to locate the bicycle spaces within the public right-of-way adjacent to the tract; and
- (2) Not obstruct access to parking spaces, other bicycle spaces, loading berths, or pedestrian walkways such as sidewalks and ramps.

(b) Each bicycle space required by this article shall contain a bicycle rack that is:

- (1) Constructed of durable materials that can withstand permanent exposure to the elements and vandalism such as powdered-coated metal or stainless steel;
- (2) Designed to permit the locking of the bicycle frame and the front wheel to the bicycle rack by a standard size 'U lock' containing locking points between one foot and three feet from the ground, and provide a gap for pedal clearance;
- (3) Designed to accommodate the typical range of bicycle sizes;
- (4) Securely anchored to the ground or building;
- (5) Spaced with sufficient clearance from other bicycle racks to allow access to the bicycle spaces; and
- (6) Properly maintained by the applicant or responsible party.

(c) The director shall develop and maintain a list of bicycle rack styles that meet and do not meet the requirements of subsection (b) of this section. The list will be available to the public on the department website. A bicycle rack style that is not identified on the list but meets the requirements of subsection (b) of this section as determined by the director shall not be prohibited from being used by the applicant to satisfy the requirements of this article."

Section 16. That the City Council hereby approves the new Off-Street Parking and Loading fees established by this Ordinance in the Code of Ordinances, Houston, Texas, in the amounts shown below:

Description	Statutory Authority	Amount
Administrative Modification of Parking Requirements – Application	26-504(a)(2)	\$406.22
Administrative Modification of Parking Requirements – Notification costs	26-504(a)(2)	\$2.94
Designation/Modification of Special Parking Area – Notification costs	26-511(2)	\$2.94
Variance Request – Notification costs	26-561(a)(2)	\$2.94

The Director of Finance shall incorporate the new fee in the City Fee Schedule.

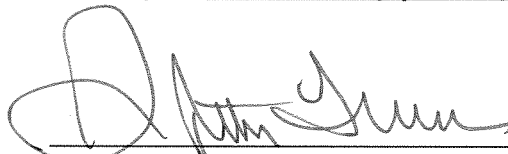
Section 17. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 18. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in

adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 19. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND APPROVED this 1st day of March, 2017.



Mayor of the City of Houston

Prepared by Legal Dept. Donna Altman *ow*
DLA:asw 2/21/2017 Senior Assistant City Attorney
Requested by Patrick Walsh, Director, Department of Planning & Development
L.D. File No. 0611600334001

CAPTION PUBLISHED IN DAILY COURT
REVIEW
DATE: MAR 07 2017

AYE	NO	
✓		MAYOR TURNER
••••	••••	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
ABSENT-ON PERSONAL BUSINESS		BOYKINS
✓		MARTIN
✓		LE
✓		TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		LASTER
ABSENT-ON PERSONAL BUSINESS		GREEN
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		EDWARDS
✓		CHRISTIE
CAPTION	ADOPTED	