

**Chapter 42 Technical Code Amendments
Planning Commission – Public Comment Draft – 03/11/2021**

**This Draft is for Discussion Purposes Only
Not approved by the City Attorney, and not final until adopted by Houston City Council**

City of Houston, Texas, Ordinance No. 2020 - _____

AN ORDINANCE AMENDING CHAPTER 42 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO SUBDIVISION PLATTING AND DEVELOPMENT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; 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 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

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1 **WHEREAS**, on _____, the Planning Commission of the City of
2 Houston held a public hearing on the proposed amendments to Chapter 42; and

3 **WHEREAS**, on _____, the City Council held a public hearing on the
4 proposed amendments to Chapter 42; and

5 **WHEREAS**, the City Council finds that all procedural requirements necessary for
6 the adoption of amendments to Chapter 42 have been satisfied and complied with;

7 **NOW THEREFORE;**

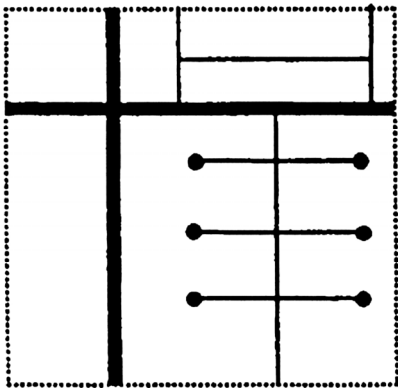
8 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON,**
9 **TEXAS;**

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

12 **Section 2.** That the following sections of Chapter 42 are hereby amended to
13 read as follows:

14 **Sec. 42-24. - General plan.**

15 (a) When property is proposed to be subdivided in sections, a general plan
16 illustrating all contiguous property under one ownership, legal interest or
17 common control shall be submitted prior to or simultaneously with the application
18 for the subdivision plat for the first section.



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- 1 (b) The general plan shall show:
- 2 (1) The alignment of any major thoroughfares within or adjacent to the property
- 3 in accordance with the major thoroughfare and freeway plan and all collector
- 4 streets that are necessary to demonstrate an overall circulation system for the
- 5 property that will meet the requirements of article III of this chapter;
- 6 (2) Recorded easements;
- 7 (3) All the floodways and the 100- and 500-year floodplains; and
- 8 (~~3~~4) At the option of the applicant, one or more local streets, which shall extend
- 9 into and connect with existing local streets and be consistent with local streets
- 10 shown on any general plans for abutting property.
- 11 (c) The general plan also may identify the number of sections anticipated to be
- 12 platted pursuant to the general plan and proposed land uses including single-
- 13 family residential, multi-family residential, restricted and unrestricted reserves,
- 14 utility plant sites, drainage and detention facilities and proposed easements
- 15 affecting the subdivision of the property.
- 16 (d) Commission approval of a general plan shall be noted on the face of the plan and
- 17 shall be applicable only to the major thoroughfare, collector street pattern and
- 18 any local street shown on the general plan.
- 19 (e) The general plan may be amended in the same manner required for approval of
- 20 the initial general plan.
- 21 (f) A general plan shall remain in effect for four years from the date of commission
- 22 approval, subject to extension as provided herein. Any amendment of the general
- 23 plan shall not result in an extension of the effective period. Recordation of a
- 24 subdivision plat for a section within the general plan during the effective period
- 25 of the general plan shall renew the general plan for an additional four years from
- 26 the expiration date of the general plan if the recorded subdivision plat meets the
- 27 following requirements:
- 28 (1) The subdivision plat is consistent with the general plan; and
- 29 (2) The subdivision plat represents the lesser of 20 percent of the total acreage in
- 30 the general plan or 25 acres.
- 31 Recordation of a street dedication plat shall not extend the effective period of a
- 32 general plan; provided, however, that a street dedication plat that dedicates a
- 33 major thoroughfare or a collector to its points of connection with adjacent
- 34 properties as shown on the general plan shall extend the general plan for four
- 35 years. Nothing shall prohibit an applicant from filing an application for a general
- 36 plan for the same property that was included in an expired general plan.
- 37 (g) As long as the general plan remains in effect, the street system approved in the
- 38 general plan shall form the basis for street system extensions into adjacent

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1 properties to be platted, unless the subdivider of such properties demonstrates
2 that the requirements of article III of this chapter can be met without the street
3 extensions.

* * *

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6 **Sec. 42-50. - General plan submittal requirements.**

7 An application for the approval of a general plan shall be filed with the department,
8 and shall:

- 9 (1) Be made on an application form provided by the department;
- 10 (2) Provide all required materials, in the quantity and manner prescribed by the
11 director, on paper, on a computer disc or on electronic media;
- 12 (3) Be accompanied by an affidavit of the owner, or the owner's authorized
13 agent with duty to inquire, identifying all encumbrances on the property
14 inside the general plan boundary;
- 15 (4) State the proposed name of the general plan, which shall not be a duplicate
16 of any subdivision or development of record within the city or its
17 extraterritorial jurisdiction;
- 18 (5) Provide the legal description of the property in the general plan, including
19 the name of the county, survey and abstract number and a reference to the
20 nearest corner or street right-of-way intersection in the general area;
- 21 (6) Show the location of all collector streets and major thoroughfares, and at
22 the option of the applicant, all local streets, within the general plan
23 boundaries;
- 24 (7) State the total acreage within the general plan;
- 25 (8) Identify the owner of the property; if the owner of the property is not a natural
26 person, state the name of the entity along with the individual authorized to
27 execute the general plan on behalf of the entity;
- 28 (9) Identify the person or firm who prepared the general plan;
- 29 (10) Indicate the date on which the general plan was drawn;
- 30 (11) Provide a north arrow;
- 31 (12) Orient the layout of the general plan with north to the top of the drawing;
- 32 (13) Provide a numeric and graphic scale, which shall be a minimum of 1" = 600'
33 and no greater than 1" = 100';
- 34 (14) Orient the general plan within the larger area by providing a vicinity map;

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- 1 (15) Have boundaries drawn with heavy lines to indicate the area included in the
2 general plan;
- 3 (16) Identify adjacent areas outside the general plan boundaries, indicating the
4 name of the adjacent subdivisions, and show the location and approximate
5 width of existing and proposed water courses, ravines, drainage
6 easements, floodways, 100- and 500-year floodplains, streets and pipelines
7 within and adjacent to the general plan boundaries;
- 8 (17) Provide survey dimensions and bearings for the boundaries of the general
9 plan, with lines outside the general plan boundaries, if any, drawn as
10 dashed lines; and
- 11 (18) Be accompanied by the applicable filing fee.

* * *

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15 **Sec. 42-53. - Time for submittal.**

- 16 (a) Complete applications that require approval by the commission and that are
17 submitted to the department by 11:00 a.m. on the submittal due date as per the
18 annual calendar available on the department website on the Monday of the week
19 before the next regularly scheduled meeting of the commission shall be placed on
20 the agenda for consideration by the commission at that meeting. . If the Monday
21 of the week preceding a regularly scheduled commission meeting is a city holiday,
22 complete applications that are submitted to the department on the first city
23 business day following the Monday holiday shall be placed on the agenda for
24 consideration by the commission at that meeting.
- 25 (b) The director shall maintain on the department website an annual calendar
26 approved by the commission that details the submittal period for all plat
27 applications that require approval by the commission. The calendar shall include:
- 28 (1) The submittal period, including the date and time by which an applicant
29 must file a complete application with the department; and
- 30
- 31 (2) The corresponding date of the regularly scheduled meeting of the
32 commission where a complete application will first be considered by the
33 commission following the submittal period, as applicable.
- 34
- 35 (c) Each year, on or before the first regularly scheduled meeting of the commission
36 in December, the commission shall adopt a schedule for the next calendar year
37 that meets the following criteria:
- 38

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1 (1) The schedule outlined in the calendar ensures the timely and expeditious
2 consideration of a complete application submitted by an applicant;

3
4 (2) The schedule outlined in the calendar creates regular and predictable
5 periods of time during which an applicant may file a complete application
6 with the department; and

7
8 (3) The schedule outlined in the calendar establishes a reasonable time period
9 for the director to perform the administrative procedures, consider and
10 review the application, and fulfill the notification requirements of this article,
11 as applicable.
12

13 (bd) Complete applications for a class I plat or a development plat shall be reviewed
14 and approved, where appropriate, or referred to the commission by the director
15 not later than ten days from the date the complete application was submitted.
16 Applications referred to the commission under this subsection shall be placed on
17 the commission agenda for consideration at the next meeting for which proper
18 notice can be given.

19 (ce) Replats that require notice to property owners pursuant to chapter 212 section
20 42-49 shall be placed on the commission agenda for consideration on the date
21 established for the public hearing. ~~required by chapter 212.~~

22 (df) Plats that require notice to property owners pursuant to sections 42-81 or 42-82
23 of this Code shall be placed on the commission agenda for consideration at the
24 next meeting for which proper notice can be given.
25

26 * * *

27
28 **Sec. 42-81. - Variances.**

29 (a) The commission is authorized to consider and grant variances from the
30 requirements of this chapter by majority vote of those members present and
31 voting, except as required by subsection (d), for any subdivision plat or
32 development plat when the commission finds that each of the following
33 conditions exist, except for subsection (e):

34 (1) Either:

- 35 a. The imposition of the terms, rules, conditions, policies and standards of
36 this chapter would create an undue hardship by depriving the applicant of
37 the reasonable use of the land; or
38 b. Strict application of the requirements of this chapter would make a project
39 infeasible due to the existence of unusual physical characteristics that

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1 affect the property in question, or would create an impractical
2 development or one otherwise contrary to sound public policy;

3 (2) The circumstances supporting the granting of the variance are not the result
4 of a hardship created or imposed by the applicant;

5 (3) The intent and general purposes of this chapter will be preserved and
6 maintained;

7 (4) The granting of the variance will not be injurious to the public health, safety or
8 welfare; and

9 (5) Economic hardship is not the sole justification for the variance.

10 In granting a variance, the commission is authorized to impose any condition on
11 the subdivision plat or the development plat for which the variance is requested
12 that the commission determines is reasonably related to the variance requested
13 and that furthers the intent and purpose of this chapter. The findings of the
14 commission, together with the specific facts upon which such findings are based,
15 shall be incorporated into the official minutes of the commission meeting at which
16 a variance was granted. The commission shall not consider or grant a variance
17 from the performance standards or definitions of this chapter or from any provision
18 of state law.

19 (b) Any variance granted under the provisions of this chapter shall apply only to the
20 specific property for which the commission approved the variance, and shall not
21 constitute a change of this chapter, or any part hereof, or establish any policy, rule
22 or regulation contrary to the provisions of this chapter.

23 (c) The commission shall not grant or deny any request for a variance on which a
24 public hearing is required by this chapter the applicable provisions of chapter 212
25 until after the hearing has been conducted.

26 (d) Approval of a variance requested for a replat that is subject to the protest
27 provisions of chapter 212 shall be by the affirmative vote of $\frac{3}{4}$ s of the commission
28 members present, or such other number as may be established by state law.

29 (e) The commission shall grant a variance to an owner of a lot that is subject to a
30 special minimum building line requirement or a special minimum lot size
31 requirement established under the provisions of article III of this chapter upon
32 determining that the owner has established a vested right to the building line or
33 lot size otherwise applicable under article III of this chapter. The commission shall
34 determine that the owner has established a vested right upon the owner's
35 demonstration that:

36 (1) The owner, in good faith and in material reliance on the building line or lot size
37 otherwise applicable under article III of this chapter, expended a substantial
38 sum of money prior to the effective date of the establishment of the special

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1 minimum building line requirement or special minimum lot size requirement
2 for the lot that cannot be recovered; or

3 (2) That the applicant, in good faith and in material reliance on building line or
4 lot size otherwise applicable under article III of this chapter, has irreversibly
5 changed position prior to the effective date of the establishment of a special
6 minimum building line requirement or special minimum lot size requirement
7 for the lot that will require the expenditure of substantial sums of money in the
8 future.

9 It shall be a rebuttable presumption that the existence of a contract to purchase,
10 or option contract on, property subject to a special minimum building line
11 requirement or special minimum lot size requirement does not constitute the
12 expenditure of a substantial sum of money.

13 (f) Each application for a general plan, subdivision plat or development plat for
14 property all or part of which is located within the city that requests or requires a
15 variance from the provisions of this chapter shall require notification in compliance
16 with section 42-83 of this Code unless one or more of the following conditions is
17 applicable:

18 (1) The application is for a general plan that does not request or require a
19 variance from section 42-135 of this Code;

20 (2) The only variance requested or required is from the requirements of section
21 42-132 of this Code;

22 (3) The only variance requested or required is from the provisions of section 42-
23 131 for a cul-de-sac that intersects with a street that does not form any part
24 of the boundary of the subdivision plat; or

25 (4) The only variance requested or required is from a building line requirement
26 of division 3 of article III of this Code for property adjacent to a street that does
27 not form any part of the boundary of the plat adjacent to platted or developed
28 property.

29 (g) The variance provisions of this section shall not apply to the requirements of article
30 IV of this chapter.

31 * * *

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33
34 **Sec. 42-123. - Street width exception areas.**

35 (c) The area bounded by western right-of-way line of Heiner Street on the east, the
36 northern right-of-way line of West Gray Street on the south, the western right-of-way
37 line of Mason Street on the west, the northern right-of-way line of Andrews Street on
38 the northwest, the western right-of-way line of Genessee on the northwest, and the

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1 southern right-of-way line of West Dallas Street on the north, including the right-of-
 2 way of Mason Street but excluding the right-of-way of Heiner, West Gray and West
 3 Dallas Streets is a street width exception area for which dedication of right-of-way in
 4 excess of that described in City Ordinance No. 1999-1344 is not required.

* * *

Sec. 42-190. - Tracts for non-single-family use—Reserves.

9 (c) Each reserve shall meet the following requirements for minimum size, the type
 10 and width of street or shared driveway on which it may be located, and the
 11 minimum frontage, as applicable to the type of reserve:

TYPE OF RESERVE	MINIMUM SIZE	TYPE OF STREET OR SHARED DRIVEWAY	MINIMUM STREET OR SHARED DRIVEWAY WIDTH	MINIMUM STREET OR SHARED DRIVEWAY FRONTAGE
Unrestricted reserve	5,000 sq. ft.	public street	60 feet (50 feet in a street width exception area)	60 feet
Restricted reserve—Lift station	Minimum size required by the design manual	public street or type 1 permanent access easement	50 feet	20 feet
		<u>Temporary access easement if the reserve meets the standards of section 42-190(d)</u>	<u>Temporary access easement if the reserve meets the standards of section 42-190(d)</u>	<u>Temporary access easement if the reserve meets the standards of section 42-190(d)</u>
Restricted reserve—Compensating open space	240 sq. ft.	public street or type 1 permanent access easement	50 feet	12 feet

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		type 2 permanent access easement	28 feet	
		shared driveway	16 feet	
Restricted reserve— Landscape or open space	None required	None required	None required	None required
Restricted reserve— Recreation	5,000 sq. ft.	public street or type 1 permanent access easement	50 feet	50 feet
Restricted reserve— Drainage or detention	None required	public street	50 feet	20 feet
		permanent access easement	28 feet	
		shared driveway owned by homeowners association	16 feet	16 feet
		None if adjoining existing reserve restricted to drainage or detention	None if adjoining existing reserve restricted to drainage or detention	None if adjoining existing reserve restricted to drainage or detention
Restricted reserve— Wastewater treatment, water production, or	5,000 sq. ft.	public street or type 1 permanent access easement	50 feet	50 feet

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water repressurization				
		<u>Temporary access easement if the reserve meets the standards of section 42-190(d)</u>	<u>Temporary access easement if the reserve meets the standards of section 42-190(d)</u>	<u>Temporary access easement if the reserve meets the standards of section 42-190(d)</u>
		None if adjoining existing reserve restricted to wastewater treatment, water production, or water repressurization	None if adjoining existing reserve restricted to wastewater treatment, water production, or water repressurization	None if adjoining existing reserve restricted to wastewater treatment, water production, or water repressurization
Restricted reserve—Parking	Minimum size requirement for a parking space specified in the Construction Code	public street or type 1 permanent access easement	50 feet	Minimum width of a parking space required by the Construction Code
		type 2 permanent access easement	28 feet	
		shared driveway	16 feet	
Restricted reserve—All other	5,000 sq. ft.	public street	60 feet (50 feet in a street width exception area)	60 feet

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1 (d) A reserve may take access via an access easement temporarily until the
2 adjacent public streets within the GP are platted with abutting sections if the
3 following conditions are met:

4 (1) The reserve is specifically restricted to lift station, wastewater treatment, water
5 production, or water repressurization.

6 (2) The access easement is temporary and non-exclusive that must be
7 recorded prior to the plat.

8 (3) the access easement follows the identified street pattern of the current
9 approved general plan.

10 (4) Minimum width of the access easement must be 30' with all-weather road
11 surface.

12 (5) Complies with HPW, Fire, County or TCEQ requirements

13 (6) Minimum 50' frontage on a 50' public street ROW must be platted and recorded
14 for the reserve as other sections abutting the reserve are recorded.

* * *

16 **Sec. 42-193. - Rules governing partial replats of certain property.**
17

18 (c) Property within a subdivision plat that contains lots restricted to single-family
19 residential or residential use may be replatted to amend a plat restriction only as
20 provided below:

21 (1) A plat restriction limiting the use of property to residential or single-family
22 residential use may be amended to permit the use of that property only for
23 landscape, park, recreation, drainage, or open space uses.

24 (2) A plat restriction limiting the use of property specifically to "nonresidential"
25 use on the plat without using the definition from Sec 42-1:

26 a. May not be amended to permit multi-family residential use of that property
27 unless the applicant demonstrates that the property was actually
28 improved and used for multi-family residential purposes prior to April 3,
29 1999;

30 b. May be amended to permit single-family residential use of that property
31 only if:

32 [1] The typical lot size in the replat is not less than the typical lot size of lots
33 in the preceding plat; or

34 [2] The property abuts a major thoroughfare.

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c. May be amended to any more specific "nonresidential" use of that property.

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