

City of Houston, Texas, Ordinance No. 2022 - 391

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; ESTABLISHING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY.

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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

WHEREAS, certain streets falling under the street width exception area have been abandoned, and such area is being revised; and

WHEREAS, the Planning Commission of the City of Houston held a public hearing and comment period on the proposed amendments to Chapter 42; and

WHEREAS, on May 11, 2022, the City Council held a public hearing on the proposed amendments to Chapter 42; and

WHEREAS, the City Council finds that all procedural requirements necessary for the adoption of amendments to Chapter 42 have been satisfied and complied with; **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 Section 42-1 of the Code of Ordinances, Houston, Texas, is hereby amended by amending the definition of the term *replat* as follows:

“*Replat* shall mean a subdivision plat prepared, approved, and recorded under the applicable provisions of this chapter that is controlling over the previous plat or a portion of the previous plat without vacation of that plat.”

Section 3. That Section 42-24(b) of the Code of Ordinances, Houston, Texas, is hereby amended by inserting a new Item (3) to read as follows and renumbering the subsequent Items accordingly:

“(3) All the floodways and the 100- and 500-year floodplains per current FEMA (Federal Emergency Management Agency) map as may be approved by the flood plain administrator that was effective at the time of the general plan approval;” and

Section 4. That Section 42-41 of the Code of Ordinances, Houston, Texas, is hereby amended by amending Items (1) and (2) to become Items (1), (2), and (3) that read as follows and renumbering the subsequent Items accordingly:

- “(1) State the proposed name of the subdivision, which shall not be a duplicate of any subdivision or development of record within the city or its extraterritorial jurisdiction and conform to the current subdivision naming standards promulgated by the director and located on the planning department website;
- (2) Provide the legal description of the property proposed to be subdivided, including the name of the previous subdivision as applicable, the name of the county, survey and abstract number;
- (3) Provide reference to the nearest corner or street right-of-way intersection in the general area;”

Section 5. That Section 42-49 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 42-49. Replats requiring notification of adjacent property owners.

- (a) A subdivision plat that is a replat must provide notification to adjacent property owners pursuant to this section if any lot in any preceding plat was limited by deed restrictions, separately filed restrictions, or plat restrictions to single family residential use or restricted to residential use for not more than two single family residential units per lot. The commission shall establish the public hearing date for replats requiring notification at the next meeting for which proper notice can be met on a complete application.
- (b) Notification to adjacent property owners on a replat is not required if the subdivision plat that created the single family plat restriction was replatted in its entirety for any other use permitted by law, and the plat restrictions were removed by that replat.
- (c) A replat filed under this section shall provide the following:
 - (1) An affidavit of owner or an authorized agent in the form specified by the director requesting commission approval and affirming:
 - a. that the submitted replat does not amend, remove, or violate, or have the effect of amending, removing, or violating, any covenants or restrictions that are contained or referenced in a dedicatory instrument recorded in the real property records separately from the preceding plat or replat, or a deed restriction, and
 - b. that it further does not attempt to amend, remove, or violate, or have the effect of amending, removing or violating, any existing public utility easements without the consent of the affected utility companies;
 - (2) The information required in the form specified by the director to provide notification in accordance with this section; and
 - (3) All costs for notice as set forth in the city fee schedule.
- (d) The applicant shall cause notice of the required public hearing to be published a minimum of 20 days before the date of the public hearing in a newspaper of general circulation in Harris, Fort Bend and Montgomery Counties upon authorization by the director, which shall be given after the commission establishes the date for the public

hearing. Prior to commission consideration of the replat, the applicant shall provide an affidavit of publication to the department.

- (e) Each replat filed under this section shall require additional notification in compliance with section 42-83 of this Code.
- (f) If a replat under this section requires a variance or special exception, the requirements of section 42-84 of this Code also apply.”

Section 6. That Item (16) of Section 42-50 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“(16) Identify adjacent areas outside the general plan boundaries, indicating the name of the adjacent subdivisions, and show the location and approximate width of existing and proposed water courses, ravines, drainage easements, floodways, 100- and 500-year floodplains per current FEMA (Federal Emergency Management Agency) map as approved by the flood plain administrator that was effective at the time of the general plan approval, streets and pipelines within and adjacent to the general plan boundaries;“

Section 7. That Section 42-53 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 42-53. Time for submittal.

- (a) Complete applications that require approval by the commission and that are submitted to the department by 11:00 a.m. on the submittal due date as per the annual calendar available on the department website shall be placed on the agenda for consideration by the commission at that meeting.
- (b) The director shall maintain at the department’s office and on the department website an annual calendar approved by the commission that details the submittal period for all plat applications that require approval by the commission. The calendar shall include:
 - (1) The submittal period, including the date and time by which an applicant must file a complete application with the department; and
 - (2) 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.

- (c) 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.
- (d) Complete applications for a class I plat or a development plat shall be reviewed and approved, where appropriate, or referred to the commission by the director not later than ten days from the date the complete application was submitted. Applications referred to the commission under this subsection shall be placed on the commission agenda for consideration at the next meeting for which proper notice can be given.
- (e) Replats that require notice to property owners pursuant to section 42-49 of this Code shall be placed on the commission agenda for consideration on the date established for the public hearing.
- (f) Plats that require notice to property owners pursuant to sections 42-81 or 42-82 of this Code shall be placed on the commission agenda for consideration at the next meeting for which proper notice can be given.”

Section 8. That the introductory paragraph of Section 42-81(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- “(a) The commission is authorized to consider and grant variances from the requirements of this chapter by majority vote of those members present and voting, except as required by subsection (d), for any subdivision plat or development plat when the commission finds that

each of the following conditions exist, except for variance requests submitted under subsection (e):”

Section 9. That Subsections (c), (d), and (f) of Section 42-81 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

- “(c) The commission shall not grant or deny any request for a variance on which a public hearing is required by the applicable provisions of section 42-49 of this Code until after the hearing has been conducted.
- (d) Approval of a variance requested for a replat pursuant to section 42-49 of this Code that is subject to the protest provisions of section 42-84 of this Code shall be by the affirmative vote of three-fourths (3/4) of the commission members present, or such other number as may be established by state law.

- (f) Each application for a general plan, subdivision plat or development plat for property all or part of which is located within the city that requests or requires a variance from the provisions of this chapter shall require notification in compliance with section 42-83 of this Code unless one or more of the following conditions is applicable:
 - (1) The application is for a general plan that does not request or require a variance from section 42-135 of this Code;
 - (2) The only variance requested or required is from the requirements of section 42-132 of this Code;
 - (3) The only variance requested or required is from the provisions of section 42-131 of this Code for a cul-de-sac that intersects with a street that does not form any part of the boundary of the subdivision plat; or
 - (4) The only variance requested or required is from a building line requirement of division 3 of article III of this Code for property adjacent to a street that does not form any part of the boundary of the plat adjacent to platted or developed property.”

Section 10. That Subsections (c), (d), and (f) of Section 42-82 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

- “(c) The commission shall not grant or deny any request for a special exception on which a public hearing is required under section 42-49 of this Code until after the hearing has been conducted.
- (d) Approval of a special exception requested for a replat that is subject to the protest provisions of section 42-84 of this Code shall be by the affirmative vote of three-fourths (3/4) of the commission members present, or such other number as may be established by state law.

- (f) Each application for a general plan, subdivision plat or development plat for property all or part of which is located within the city that requests or requires a special exception from the provisions of this chapter shall require notification in compliance with section 42-83 of this Code unless one or more of the following conditions is applicable:
 - (1) The only special exception requested or required is from the requirements of section 42-132 of this Code; or
 - (2) The only special exception requested or required is from the provisions of section 42-131 of this Code for a cul-de-sac that intersects with a street that does not form any part of the boundary of the subdivision plat.”

Section 11. That Section 42-83 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 42-83. Notification of applications.

- (a) The director shall give the notice required by subsections 42-49(e), 42-81(f) and 42-82(f) of this Code by:
 - (1) Either:
 - a. Mailing a letter to the owners of all lots or tracts that are within 300 feet of the boundary of the general plan, subdivision plat or development plat a minimum of 20 days before the date of the public hearing or the first meeting at which the commission will first consider the application; or
 - b. By causing the information to be readily available to the public in an electronic format; and
 - (2) By letter mailed first class mail, postage paid, or by electronic mail message to the following as soon as reasonably possible

before the first meeting at which the commission will consider the application:

- a. Each neighborhood association with defined boundaries registered with the department in whose area the general plan, subdivision plat, replat or development plat is located;
 - b. The office of the council member in whose district the general plan, subdivision plat, replat or development plat is located;
 - c. All at-large councilmember offices;
 - d. The Super-Neighborhood Alliance;
 - e. All management districts and tax increment reinvestment zones in which the general plan, subdivision plat, replat or development is located; and
 - f. The super-neighborhood in which the general plan, subdivision plat, replat, or development plat is located.
- (b) The applicant shall give the notice required by subsections 42-49(d), 42-81(f) and 42-82(f) of this Code by posting at least one sign on the property that is the subject of the general plan, subdivision plat, replat or development plat a minimum of 20 days before the date of the meeting at which the commission will first consider the application. A sign shall face each public street or private roadway bordering the site, provided, however, that if more than four signs would be required to be posted, the applicant may request the director to approve an alternative number and location of signs. The director may approve an alternative to the number and location of signs required by this subsection in excess of four upon determining that the alternative will provide maximum visibility and obtain 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 street or private roadway. The lettering on the sign shall be legible from the public street or private roadway. The applicant shall use reasonable efforts to maintain each required sign on the site until the close of the meeting at which the commission acts on the application.
- (c) Required signs shall provide the following information:
- (1) The application address or name and number of the general plan, subdivision plat, replat, or previous plat when applicable

and a summary of the variance or special exception being requested, if any;

- (2) The date, time, and place of the meeting at which the commission will next consider the application, updated to reflect any changes in the date, time, and place of the meeting, including if the applicant's plat is deferred by the commission, or if the public hearing is postponed for any reason. If the application is deferred or the hearing date is otherwise postponed, the applicant shall amend all signs to reflect the correct date and information for the new hearing date, and shall provide proof of such change to staff;
 - (3) The proposed land uses of the property, if known;
 - (4) A telephone number of the applicant to call for additional information; and
 - (5) A department telephone number to call for additional information.
- (d) The applicant shall remove the signs within 60 days after the application being acted upon by the commission, withdrawn by the applicant, or otherwise deemed inactive by the director."

Section 12. That Division 3 of Article II of Chapter 42 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 42-84 that reads as follows:

"Sec. 42-84. Replats requiring notification with a variance/special exception- Protest procedure, required vote.

- (a) If the proposed replat pursuant to section 42-49 of this Code requires a variance or special exception and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths (3/4) of the members present at the commission meeting.
- (b) To constitute a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision plat limited by the deed or plat restrictions to single family residential use, must be filed with the commission prior to the close of the public hearing.

- (c) In computing the percentage of land area under subsection (b), the area of streets and alleys shall be included.
- (d) Compliance with this section is not required for approval of a replat or part of a preceding plat if the area to be replatted was designated or reserved for other than single family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.”

Section 13. That Section 42-123(c) of the Code of Ordinances, Houston, Texas, is hereby amended, due to the abandonment of Mason Street and Andrew Street to the west of Genessee Street, to read as follows:

- “(c) The area bounded by western right-of-way line of Heiner Street on the east, the northern right-of-way line of West Gray Street on the south, the western right-of-way line of Genessee Street on the west, and the southern right-of-way line of West Dallas Street on the north, including the right-of-way of Genessee Street, but excluding the right-of-way of Heiner, West Gray and West Dallas Streets, is a street width exception area for which dedication of right-of-way in excess of that described in City Ordinance No. 1999-1344 is not required.”

Section 14. That the Table in Section 42-190(c) of the Code of Ordinances, Houston, Texas, is hereby amended by amending standards for the types of reserves that are listed below to read as follows:

Restricted reserve—Lift station	Minimum size required by the design manual	public street or type 1 permanent access easement	50 feet	20 feet
		Temporary access easement if the reserve meets the standards of section 42-190 (d)	Temporary access easement if the reserve meets the standards of section 42-190(d)	
Restricted reserve—Waste water treatment, water	5,000 sq. ft.	public street or type 1 permanent access	50 feet	<u>50 feet</u>

production, or water repressurization		easement		
		Temporary access easement if the reserve meets the standards of section 42- 190(d)	Temporary access easement if the reserve meets the standards of section 42- 190(d)	

Section 15. That Section 42-190 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Subsection (d) to read as follows:

- (d) A reserve may take access via an access easement temporarily until the adjacent public streets within the general plan are platted with abutting sections if all of the following conditions are met:
 - (1) The reserve is specifically restricted to lift station, wastewater treatment, water production, or water repressurization;
 - (2) The access easement is temporary and non-exclusive that must be recorded prior to the recordation of the plat in a form approved by the city attorney;
 - (3) The access easement aligns with the public street pattern identified in the current approved general plan;
 - (4) The minimum width of the access easement must be 30 feet with all-weather road surface and shall comply with all applicable Design Manual, Fire Code, city, county, and Texas Commission of Environmental Quality (TCEQ) requirements; and
 - (5) The minimum street width and minimum frontage requirements otherwise required by this section must be met as other sections abutting the reserve are recorded."

Section 16. That the introductory sentence of Section 42-193(c)(2) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"A plat restriction limiting the use of property specifically to 'nonresidential':"

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 applicability 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 20. 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 on 12:01 a.m. on June 10, 2022.

PASSED AND ADOPTED this 18th day of May, 2022.

APPROVED this 18th day of May, 2022.

Sylvester Turner
Mayor of the City of Houston

Prepared by Legal Dept. _____
KM:es 06/7/22 Senior Assistant City Attorney
Requested by Margaret Wallace Brown, Director, Planning and Development Department
L.D. File No. 612100015001