

**AN ORDINANCE AMENDING BUFFERING STANDARDS CONTAINED IN CHAPTER 42 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO SUBDIVISION PLATTING AND DEVELOPMENT; AMENDING THE NATIONAL ELECTRICAL CODE AS ADOPTED AND AMENDED BY THE CITY OF HOUSTON ON LIGHT BUFFERING; AMENDING 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 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 Council finds that it is appropriate to modify certain buffering standards to protect residential uses from the impacts of commercial development, such as requiring a buffer area, parking garage screening, lighting fixture standards, and bulk container screening provisions contained in Chapters 39 and 42 of the Code of Ordinances and related provisions in the Houston Construction Code; 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 public comment period on the proposed amendments; and



**WHEREAS**, on January 11, 2023, the City Council held a public hearing on the proposed amendments as revised following public comment and review of those comments, many of which were incorporated; 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 Chapter 42 of the City of Houston Code of Ordinances, Section 42-1, Definitions, amending and adding new definitions as follows:

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

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

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

*Mid-rise* shall mean a structure 65 feet or greater measured from grade to the top of structure but less than a high-rise as defined in this chapter.

*Multi-unit residential (MUR)* shall mean the use of property for one or more buildings on a tract designed for and containing an aggregate of three to eight dwelling units, which may include multiple duplexes, triplexes, quadraplexes, and apartments and condominiums.



**Section 3.** That Chapter 42 of the City of Houston Code of Ordinances, Article III, Division 8, Residential Buffering Standards, Section 42-271(a), Applicability, is hereby amended to read as follows:

**Sec. 42-271. - Applicability.**

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

...

**Section 4.** That Chapter 42 of the City of Houston Code of Ordinances, Article III, Division 8, Residential Buffering Standards, Section 42-272, Abutting development standards, is amended to read as follows:

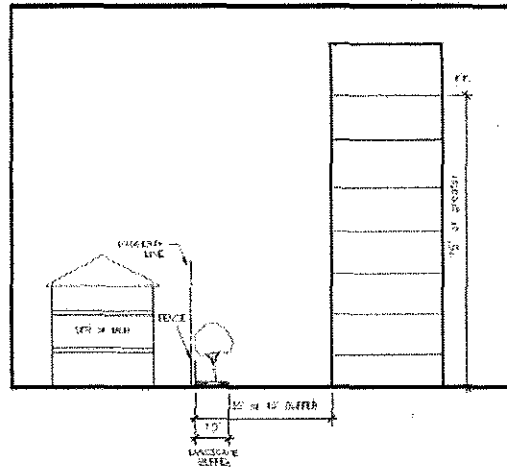
**Sec. 42-272. - Abutting development standards.**

- (a) The following standards shall apply to a high-rise or mid-rise structure located on an abutting development greater than 75 feet in height on property that is contiguous to or takes access from a public street, except as provided in section 42-271(b). For purposes of this section, a private roadway shall be treated as: (i) a major thoroughfare if it intersects a major thoroughfare; (ii) a collector street if it intersects a collector street and not a major thoroughfare, or (iii) a local street if it does not intersect a major thoroughfare or a collector street.

- (1) An abutting development shall provide a buffer area from any side of a property line that abuts lots or tracts in use for or restricted to single-family residential use or multi-unit residential use if the majority of the lots or tracts abutting the shared side of the property line are in use for or restricted to single family residential or multi-unit residential use, ~~are greater than 3,500 square feet and 60% or more of the length of the shared property line is comprised of lots greater than 3,500 square feet in use for or restricted to single family residential or multi-unit residential use.~~ No structure or covered parking may be located within the buffer area. The buffer area may be used for vehicular access and surface parking.



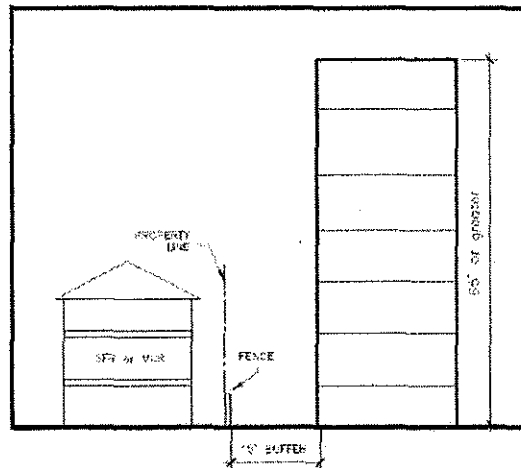
- a. For an abutting development with a high-rise structure that is required to provide a buffer area, and is contiguous to or takes access from a collector street, the buffer area shall be 30 feet from the property line of the abutting property in use for or restricted to single-family residential lots or multi-unit residential uses.



BUFFER FOR HIGH-RISE

- b. For an abutting development with a high-rise structure that is required to provide a buffer area and is contiguous to or takes access from only local streets, the buffer area shall be 40 feet from the property line of the abutting property in use for or restricted to single-family residential lots or multi-unit residential uses.
- c. For an abutting development with a mid-rise residential structure that is required to provide a buffer area and is contiguous to or takes access from a local street only, the buffer area shall be 15 feet from the property line of an abutting property in use for or restricted to single family residential or multi-unit residential uses.





BUFFER FOR MID-RISE

d. No buffer area is required for buildings less than 65 feet in height.

(2) The buffer area required for high-rise structures shall include a ten-foot landscape buffer from the property line of the abutting development. The landscape buffer shall include:

- a. An eight-foot tall solid masonry wall along the property line or an eight-foot tall wooden fence if a utility easement runs along the property line;
- b. Grass, shrubs, other vegetation, or non-vegetative permeable cover with no paving or other impervious cover within the landscape buffer;
- c. No mechanical equipment; and
- d. At least one tree, planted or preserved, for every 20 feet of the length of the side of the property line. The trees shall be arranged throughout the landscape buffer to provide additional screening to adjacent single-family or multi-unit residential uses ~~lots~~ and avoid damage to existing plant material. Possible arrangements include planting in parallel, serpentine, or broken rows. Each tree shall have a minimum caliper of 1.5 inches, and be a species listed on the street tree list or parking lot tree list issued and revised by the director of parks and recreation pursuant to article V of Chapter 33 of ~~this Code~~. Compliance with this subsection is not required where a utility easement runs along, over or on the shared property line.

Compliance with this subsection ~~item~~ shall ~~be considered to~~ satisfy the requirements of section 33-128 of this Code.



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

**Section 5.** That the Construction Code of the City of Houston Code, Building Code, Section 406.4.9, Garage Screening, is hereby amended to read as follows:

**406.4.9 Garage screening.** Any part of an abutting development, as defined by Section 42-1 of the City Code, used as a parking garage structure shall provide an exterior cover for each floor of the structure where parking occurs that directly faces abuts property in use for or restricted to single-family residential use or which is located across the street from property in use for or restricted to residential use. The exterior cover of of such a parking garage structure shall be made of an opaque surface or be constructed of other material screen-mesh material of sufficient rating to block light from headlights onto adjacent property in use for or restricted to single-family residential use in a manner that blocks or redirects the light from headlights on vehicles located within the garage, so as to not create light trespass onto adjacent residential property. The exterior cover shall be at least 42 48 inches (1,066.8 1219.2 mm) in height measured vertically from the each finished floor where parking occurs. Where an applicant provides evidence to the building official that a 48 inch exterior cover will require the garage to have a mechanical ventilation system, the applicant may reduce the exterior cover enough to meet open ventilation requirements but in no instance may it be less than 42 inches, and shall not be required on any floor of the parking garage structure which has a finished floor over 50 feet (15,240.0 mm) in height from grade. For ramps and other sloped surfaces, the exterior cover shall be positioned to block light from headlights from crossing property lines onto adjacent properties in use for or restricted to single family residential use or across the street from residentially used properties.

When a parking garage structure abuts a public street or land used for or restricted to residential development, one of the following is required to minimize light trespass from internal garage ceiling lighting:

- a. A photometric plan showing all internal garage luminaires, demonstrating that no light trespass occurs beyond the property line that exceeds 0.2-foot candles measured at grade on the property line, or;
- b. Screening for the entire height of the garage facing the street or abutting residential development to prevent light trespass beyond the property line that exceeds 0.2-foot candles measured at grade on the property line.



**Section 6.** That the National Electrical Code as adopted and amended by the City of Houston, is hereby amended by adding the following definitions to Section 103:

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

Color rendering index (CRI) shall mean the measurement of how colors of illuminated surfaces appear under a light source when compared with sunlight.

Correlated color temperature (CCT) shall mean the gauge of how yellow to white to blue the color of light emitted from a light source appears.

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

**Section 7.** That the National Electrical Code as adopted and amended by the City of Houston, is hereby amended by adding the following to Section 512.1 of the Administrative Code Provisions:

All outdoor wall or pole mounted luminaires placed within a development, other than single-family or multi-unit residential uses as those terms are defined in Chapter 42-1, must be installed to minimize light trespass and keep direct light from shining onto abutting residential properties or public streets. In addition, the light source must be fully enclosed in the luminaire housing.

In a development other than single-family or multi-unit residential use, as those terms are defined in Chapter 42-1, that includes wall or pole-mounted luminaires on a wall or fence that abuts property used for or restricted to residential purposes or a public street, the following standards shall apply:

- a. All outdoor luminaires must be designed to prevent light trespass beyond the property line of no more than 0.2-foot candles measured at grade on the property line, and provide a photometric plan for compliance. Full cutoff luminaires as defined in the Building Code and house side shields as needed may be used to meet the criteria;
- b. All outdoor luminaires are required to have a maximum Correlated Color Temperature of 3,500 Kelvins and a minimum Color Rendering Index of 70. The applicant must provide specifications for all luminaires on the building plans evidencing compliance; and



- c. Accent lights that are directed upwards are exempted from the above requirements, provided the light sources are fully enclosed in the luminaire housing, located and aimed to illuminate only the objects of interest, and are shielded to minimize light spill into the night sky or light trespass onto adjacent residential uses and public streets.

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

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

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

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

**Section 9.** That Chapter 39, Solid Waste and Litter Control, Article VI, of the City of Houston Code of Ordinances, is hereby amended by amending Section 39-101, Screening Required to read as follows:

This article shall apply to all new developments, which for purposes of this section is defined as those for which plans are submitted after February 25, 2023, other than single-family residences, are located within the city, and are not serviced by the Solid Waste Department. All such developments shall identify the location of the service area or the bulk container along with screening when applicable on a site plan required per section 26-473 or section 42-46.

- (a) An owner or lessee of property shall place or maintain a bulk container so that it is not visible from any abutting public street the right-of-way, on the address side of the property. A bulk container located on a service drive, or in a service



area behind or beside a building on said the property shall not be deemed visible from the a public street right-of-way.

- (b) A bulk container shall be deemed to be visible only if it can be seen by any person who is standing at grade level on any part of the right-of-way of a public street having a right-of-way width of 40 feet or more that adjoins the address side of the property on which the bulk container is located.
- (c) An owner or lessee of property may utilize a berm, building, fence, wall, gate, shrubbery, or a combination thereof, to accomplish the screening of a bulk container from view.
- (d) A bulk container placed on new developments located in a service area between a building and an abutting residential property shall require a minimum 8 foot-high solid fence or screen between the property line and the bulk container.
- (e) A bulk container placed on new developments located between a building and a public street shall require minimum 6 foot-high solid fence to screen the dumpster from public view. A bulk container housed inside the building is exempt from this requirement.

**Section 10.** That Chapter 39, Solid Waste and Litter Control, Article VI, of the City of Houston Code of Ordinances, is hereby amended by amending Section 39-102 to rename it as "Offenses and Defenses," and to clarify Section 39-102(b)(4) to read as follows:

- (a) *Offenses.* It shall be unlawful for any person to:
  - (1) Fail to comply with section 39-101 of this Code.
  - (2) Place or cause to be placed a bulk container on private property without first obtaining the permission of the owner or person in charge of the property.
  - (3) Fail to maintain screening as required under this article.
- (b) *Defenses.* It is a defense to prosecution under subsection (a) above that:
  - (1) The bulk container is in daily actual use, exclusive of weekends, holidays, and inclement weather days, for the purpose of disposing of waste generated by the demolition or construction, or both, of improvements on the property upon which the bulk container is situated and that all building permits required for the work have been obtained.
  - (2) The bulk container was placed by or upon written authority of the director on a temporary basis for a neighborhood clean-up campaign or similar temporary purpose.
  - (3) The bulk container is used exclusively for the collection of recyclable materials.



(4) For new development, as that term is defined in section 39-101, tThere is inadequate space to locate the bulk container upon the property in a manner that complies with section 39-101 of this Code. ...

***[Remainder of this sub-section (b) unamended.]***

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

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

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

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

**Section 13.** That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such non-substantive 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 14.** 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 15.** 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 at 12:01 a.m. on February 25, 2023.

PASSED AND ADOPTED this 25<sup>th</sup> day of January, 2023.

APPROVED this 25<sup>th</sup> day of January, 2023.

  
Mayor of the City of Houston

Prepared by Legal Dept. 

KM:llm 01/13/23 Senior Assistant City Attorney

Requested by Margaret Wallace Brown, Director, Planning and Development  
Department

L.D. File No. 0000000701



Meeting 01/25/2023

| Aye                         | No      |                        |
|-----------------------------|---------|------------------------|
| ✓                           |         | <b>Mayor Turner</b>    |
| ....                        | ....    | <b>Council Members</b> |
| Absent on personal business |         | Peck                   |
| ✓                           |         | Jackson                |
| ✓                           |         | Kamin                  |
| ✓                           |         | Evans-Shabazz          |
| ✓                           |         | Martin                 |
| ✓                           |         | Thomas                 |
| ✓                           |         | Huffman                |
| ✓                           |         | Cisneros               |
| ✓                           |         | Gallegos               |
| ✓                           |         | Pollard                |
| ✓                           |         | Castex-Tatum           |
| ✓                           |         | Knox                   |
| ✓                           |         | Robinson               |
| ✓                           |         | Kubosh                 |
| ✓                           |         | Plummer                |
| ✓                           |         | Alcorn                 |
| Caption                     | Adopted |                        |

Captions Published in DAILY COURT REVIEW

Date: 1/31/2023