

City of Houston, Texas, Ordinance No. 2013-\_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTERS 10 AND 42 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO SUBDIVISION AND DEVELOPMENT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**WHEREAS**, the City of Houston is a municipal corporation organized under the Constitution and the general and special laws of the State of Texas and exercises powers granted by the City's Charter and the provisions of Article XI, Section 5 of the Texas Constitution; and

**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 may, under the provisions of Chapter 212, establish by ordinance general rules and regulations governing development plats 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 has previously found that certain areas of the City had developed as urban in nature by virtue of a mix of land uses, development density and street patterns, and that encouraging development and redevelopment of areas that could be characterized as urban by adopting rules and regulations that facilitate more compact development in urban areas was in the best interest of the public health, safety and welfare of the City; and

**WHEREAS**, the City Council finds that it is in the best interest of the public health, safety and welfare of the City to encourage similar development and redevelopment of the City by adopting rules and regulations that facilitate compact development throughout the entire City; and

**WHEREAS**, the City Council finds that it is appropriate to implement certain rules and regulations in stages; and

**WHEREAS**, on December 13th, 2012, the Planning Commission of the City of Houston held a public hearing on the proposed amendments to Chapter 42; and

**WHEREAS**, on March 27th, 2013, 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 complied with and satisfied;

**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 10 of the Code of Ordinances, Houston, Texas, is hereby amended by adding Section 10-8, which shall read as follows:

**“Sec. 10-8. Access rights to adjacent single-family residential property.**

The building official shall not issue a permit for the construction of a new building or addition to an existing building within three feet of property used for or restricted to single-family residential use, as that phrase is defined in chapter 42 of this Code, unless the owner of the property for which a permit is sought has filed a separate instrument in the form provided for by the director of the department of planning and development for recordation in the real property records that provides for the owner's right to enter onto the adjacent single-family residential property for the purpose of performing construction, repairs, and maintenance to the building on the property for which a permit is sought.”

**Section 3.** That Chapter 42 is hereby amended in its entirety to read as set forth in Exhibit “A” of this Ordinance, which is attached hereto and incorporated herein.

**Section 4.** That each of the following shall be processed and considered by the Director of the Planning and Development Department (“Director”) or the Planning Commission, as appropriate, pursuant to the provisions of Chapter 42 in effect prior to the effective date of this Ordinance, and the former provisions of Chapter 42 are saved for that limited purpose:

1. Any complete application for a subdivision plat or development plat that is filed with the Department of Planning and Development and pending approval by the Planning Commission prior to the effective date of this Ordinance;

2. Any final plat and subsequent recorded plat that are based on a preliminary plat approved by the Planning Commission prior to the effective date of this Ordinance; or
3. Any plat to be recorded based on a final plat approved by the Planning Commission prior to the effective date of this Ordinance.

**Section 5.** Upon passage and approval of this Ordinance, the provisions of Sections 42-145, 42-146, and 42-147, relating to shared driveways, Sections 42-153, 42-154, and 42-157, relating to building lines, and Sections 42-181, 42-182, 42-184, and 42-185, relating to lots and reserves, as amended by this Ordinance, shall apply to a subdivision plat or development plat that includes land outside the boundaries of Interstate Highway 610 in accordance with the following:

1. A subdivision plat or development plat that includes one acre of land or more submitted before one year after the effective date of this Ordinance shall be treated as though it is located within the extra-territorial jurisdiction of the City; and
2. A subdivision plat or development plat that includes less than one acre of land submitted before two years after the effective date of this Ordinance shall be treated as though it is located within the extra-territorial jurisdiction of the City.

**Section 6.** During the period beginning on the effective date of this Ordinance and ending on the last day of the 12th month following, for an application for a special minimum building line block, special minimum lot size block, or special minimum lot size area filed with the Department of Planning and Development, if the City Council has not completed action on the application before 360 days after the effective date of this

Ordinance, a subdivision plat, development plat, or building line application filed with the department shall not be subject to the special minimum building line or special minimum lot size, as applicable. This provision will apply to any application filed during the 12 months after the effective date of the Ordinance until final action on the application, notwithstanding the date subsection 42-179(c) and subsection 42-208(f), as amended by this Ordinance, become effective.

**Section 7.** 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 8.** 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 the thirtieth day next following the date of its passage and approval by the Mayor; provided, however, that the subsection 42-179(c) and subsection 42-208(f) of the Code of Ordinances, as amended by this Ordinance, shall not become effective until the last day of the 12<sup>th</sup> month following the effective date of this Ordinance.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Mayor of the City of Houston

Prepared by the Legal Dep't \_\_\_\_\_  
(SOI March 18, 2013 \_\_\_\_\_ Assistant City Attorney)  
Requested by Marlene L. Gafrick, Director, Planning & Development Department  
L.D. File No.

## Chapter 42

### SUBDIVISIONS, DEVELOPMENTS AND PLATTING\*

#### ARTICLE I.

#### IN GENERAL

##### Sec. 42-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed in this section unless the context of their usage clearly indicates another meaning:

*Abutting development* shall mean a structure located on property not in use for or restricted to single-family 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. 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.

*Alley* shall mean a public or private right-of-way that is not used primarily for through traffic and that provides vehicular access to rear entrances to buildings or properties that front on an adjacent street.

*Amending plat* shall mean an amending subdivision plat prepared and approved under the applicable provisions of chapter 212 and this chapter.

*Applicant* shall mean the owner of property or the owner's authorized agent who applies for a subdivision plat, development plat, general plan or street dedication plat pursuant to this chapter.

*Arcade/colonnade* shall mean a series of arches or columns with a roof attached to the face of a building creating an unenclosed covered pedestrian space.

GRAPHIC UNAVAILABLE: [Click here](#)

*Back-of-curb* means the lateral line of a roadway measured from the back of the roadway's curb nearest the property line.

*Block* shall mean one or more lots, tracts or parcels of land bounded by streets, easements, rights-of-way or other physical features or a combination thereof.

*Blockface* shall mean that portion of a block that abuts a street between two intersecting streets, or between an intersecting street and the termination of the street.

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

*Building* shall mean any structure used or intended for supporting or sheltering any use or occupancy.

*Building line* shall mean the line shown on a subdivision plat or development plat establishing the building line requirement. An area is within the building line if it lies between the building line and the property line adjacent to a street or private street and is behind the building line if it lies to the interior of the property from the building line.

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*Building line requirement* shall mean the minimum required distance from an easement or a property line adjacent to a street or private street in which no improvements requiring a building permit can be constructed on the property.

*Building permit* shall mean an official document or certificate issued by the building official authorizing performance of a specified activity under the Construction Code.

*Central business district* shall mean the area beginning at the intersection of the centerline of U.S. 59 and the centerline of I.H. 45; thence in a northwesterly and northerly direction along the centerline of I.H. 45 to its intersection with the centerline of I.H. 10; thence in an easterly direction along the centerline of I.H. 10 to its intersection with the centerline of U.S. 59; thence in a southwesterly direction along the centerline of U.S. 59 to its intersection with I.H. 45, the point of beginning.

*Chapter 212* shall mean Chapter 212 of the Texas Local Government Code, as it may be amended from time to time.

*Class I plat* shall mean a subdivision plat that meets the applicable requirements of section 42-23 of this Code.

*Class II plat* shall mean a subdivision plat that meets the applicable requirements of section 42-23 of this Code.



*Class III plat* shall mean a subdivision plat that is not a Class I plat or a Class II plat.

*Clear pedestrian space* or *clear space* means that area above a sidewalk that forms a continuous, obstacle free path for a minimum width of six feet and a minimum height of seven and one-half feet.

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Clear pedestrian space

*Collector street* shall mean a public street that is not a major thoroughfare or a local street, but that distributes traffic between major thoroughfares and other streets.

*Commission* shall mean the planning commission of the city.

*Compensating open space* shall mean one or more areas designated as common open space on a subdivision plat or a development plat that are used to reduce the minimum lot size requirements pursuant to the provisions of article III of this chapter.

*Courtyard* shall mean a space, open and unobstructed to the sky, located at or above grade level on a lot or parcel and bounded on two or more sides by walls of a building.

*Cul-de-sac* shall mean a street with only one outlet that terminates in a vehicular turnaround appropriate for the safe and convenient reversal of traffic movement.

*Department* shall mean the department of planning and development of the city.

*Design manual* shall mean the department of public works and engineering design manual for wastewater collection systems, water lines, storm drainage and street paving, as it may be amended from time to time.\*

*Develop/development* shall mean any activity for which a development plat is required by this chapter.

*Development plat* shall mean a site plan prepared and approved pursuant to section 42-22 of this Code.

*Director* shall mean the director of the department or the director's designees.

*Director of solid waste* means the director of the department of solid waste management or his designee.

*Dwelling unit* shall mean a structure, or a portion of a structure, that has independent living facilities including provisions for nontransient sleeping, cooking and sanitation.

*Extraterritorial jurisdiction* shall mean the unincorporated territory extending beyond the corporate boundaries of the city established pursuant to chapter 42 of the Texas Local Government Code, as may be amended from time to time.

*Facade* means the exterior wall of any building on a property that faces a public street abutting the property.

*Filing date* shall mean the date on which a subdivision plat is formally presented to the commission for its consideration as part of the commission's official meeting agenda, which shall be considered as the initial date of the statutory 30-day time period in which the commission is required to act upon a subdivision plat submitted to it under the provisions of chapter 212.

*Fire lane* shall mean an access road so marked as to clearly indicate the required lane of unobstructed fire department access to a building, structure or property in event of a fire or other emergency situation.

*Final plat* shall mean a map or drawing of a proposed subdivision prepared in a manner suitable for recording in the appropriate county map, plat or real property records and prepared in conformity with the requirements of article II of this chapter.

*Flag lot* shall mean a lot whose frontage on and access to the street right-of-way is provided by a narrow driveway, access easement or other parcel of land referred to as the "staff" of the flag lot.

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*Frontage* shall mean that portion of any lot or tract that abuts a street. A lot or tract abutting more than one street shall have frontage on only one street, which shall be deemed to be the side of the lot or tract with the shortest dimension unless otherwise indicated on the subdivision plat or development plat.

*General plan* shall mean a map illustrating the general design features and street layout of a proposed development of land that is to be subdivided and platted in sections.

*Hardscape* means a walkable surface made of durable materials, including paving or asphalt.

*Local street* shall mean a type 1 permanent access easement and a public street that is not a major thoroughfare or collector street.

*Lot* shall mean: (1) in the context of a subdivision plat, an undivided tract of land intended for single-family residential use contained within a block and designated on a subdivision plat by numerical identification; (2) in the context of a development plat, a parcel intended as an undivided unit for the purpose of development; or (3) in the context of ~~an application for special building line requirement area under section 42-163 of this Code or for minimum lot size area under section 42-194 of this Code, the provisions of this chapter pertaining to special minimum building line blocks, special minimum lot size blocks, and special minimum lot size areas,~~ contiguous land under common ownership, as shown on the most ~~recently approved ad valorem tax rolls of the city current appraisal district records,~~ that is used or developed ~~as a unit for residential or nonresidential uses for any use,~~ regardless of whether the land consists of a platted lot or a portion of a platted lot or a combination thereof. Two or more platted lots that have been combined in their entireties as a single building site shall not constitute a single lot under item (3) of this definition ~~for the purpose of applying a minimum lot size requirement.~~

*Major Activity Center* or *MAC* shall mean an area so designated by city council pursuant to section 42-~~274-273~~ of this Code.

*Major thoroughfare* shall mean a public street designated as a principal thoroughfare or thoroughfare on the latest edition of the major thoroughfare and freeway plan.

*Major thoroughfare and freeway plan* shall mean the latest edition of the major thoroughfare and freeway plan adopted by the commission and approved by the city council.

*Multi-family residential* shall mean the use of property with one or more buildings on a parcel designed for and containing an aggregate of three or more dwelling units. Multi-family residential includes apartments, condominiums, triplexes and quadriplexes.

*Nonresidential* shall mean any use that is not multi-family residential or single-family residential.

*Off-street parking* shall mean vehicular parking that is provided in a location other than in a public right-of-way.

*Open space amenities plan* shall mean a plan submitted as part of a subdivision plat application that specifies how each area not otherwise eligible to be used as compensating open space will be improved and maintained with amenities such as parks, nature trails, picnic areas or other similar facilities that render the compensating open space accessible to and useable by the owners of lots in the subdivision.

*Parcel* shall mean any quantity of land capable of being described with such definiteness that its location and boundaries can be established that is designated by its owner as land to be used or developed as a unit or that has been used or developed as a unit. Parcel includes an easement supporting or related to a primary parcel, and a condominium unit.

*Park* shall mean an area owned or to be owned by the city that may be used for passive or active recreational use or otherwise left in an unimproved state, and that, if specifically noted as a type of public park, shall conform to the designations in the City of Houston Parks Master Plan.

*Parks board* shall mean the board created pursuant to section 33-201 of this Code.

*Parks director* shall mean the director of the city's parks and recreation department, or the director's designee.

*Pedestrian realm* means the area from the back-of-curb that is within a public street or other public easement and that includes hardscape, publicly accessible sidewalks, clear pedestrian spaces, pedestrian amenities, softscape and utilities, constructed in accordance with the design manual and/or this chapter.

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*Permanent access easement* shall mean a privately maintained and owned street easement approved by the commission that provides for vehicular access to three or more single-family residential units and which shall be either a Type 1 permanent access easement or a Type 2 permanent access easement, each of which is defined in this section.

*Permeable* shall mean a surface that allows water to pass through it and penetrate into the ground.

*Plat restriction* shall mean any covenants, restrictions, or plat notations that are contained only on a subdivision plat recorded in the real property records without reference in any dedicatory instrument recorded in the real property records separately from the subdivision plat. Plat restrictions do not include (1)

building lines, (2) lot lines, or (3) covenants, restrictions, and notations on a recorded subdivision plat of a multi-family residential development relating to the requirements and standards of division 6 of article III of this chapter.

*Preliminary plat* shall mean a map or drawing of a proposed subdivision that illustrates the proposed layout and features of the subdivision submitted to the commission for review and approval, but not suitable for recording in the county map, plat or real property records.

*Private drive* shall mean a privately owned way used for vehicular travel that is not a street or private street and that provides an unobstructed connection between one or more streets or private streets or to any portion of a parking lot, shopping center, institution, commercial area or industrial development. A private drive may provide for access by the general public, but the owner of the private drive shall maintain the right to restrict public access to the private drive.

*Private park* shall mean a privately owned area that may be used for passive or active recreational use or otherwise left in an undeveloped state and, in a single family residential development, that is subject to restrictive covenants filed of record in the appropriate county providing for the creation and operation of a homeowners association to maintain and improve the private park. Compensating open space as defined by this section can also be private park land to the extent it meets the requirements of section 42-254(b)(2)a of this Code.

*Private roadway* shall mean a privately owned and maintained vehicular accessway that provides access to a tract of land.

*Private street* shall mean a privately maintained and owned vehicular accessway that provides access from a public street to one or more multi-family residential buildings.

*Public street* shall mean a public right-of-way, however designated, dedicated or acquired, that provides access to adjacent property.

*Recorded map return agreement* shall mean a written agreement authorizing the county clerk of the county in which a subdivision plat is filed to return the original recorded subdivision plat to the department.

*Remainder tract* shall mean the undivided acreage tract that remains when a portion of a tract that is comprised of all contiguous land under common ownership is subdivided pursuant to a subdivision plat.

*Replat* shall mean a subdivision plat prepared and approved under the applicable provisions of chapter 212 and this chapter.

*Reserve tract* shall mean a parcel of land that is not a lot, but is created within a subdivision plat for other than single-family residential use and is established to accommodate some purpose for which a division into lots is not suitable or appropriate.

*Residential* shall mean pertaining to the use of land for premises that contain habitable rooms for nontransient occupancy and that are designed primarily for living, sleeping, cooking and eating therein. A premises that is designed primarily for living, sleeping, cooking and eating therein will be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, suites hotels, motels, boarding houses, and day care centers shall not be considered to be residential.

*Retail commercial center* shall mean a group of commercial establishments contained or to be contained in a building or buildings encompassing a total building area of not more than 100,000 square feet developed as an integrated unit under common ownership or operating as an integrated unit under reciprocal agreements governing all external, nonbuilding space.

*Reverse curve* shall mean a curve composed of two curves turning in opposite directions.

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*Roadway* means the portion of a public street that is improved for, designed for, or ordinarily used for vehicular use.

*Sector* shall mean one of 17 geographic areas within the city for designation of new park needs or additional park improvements.

*Shared driveway* shall mean: a private roadway that ~~(1) is not an extension of any street or private streetroadway; (2) has a length not greater than 200 feet from its intersection with the right-of-way of a public street; and (3) and~~ provides access to two or more single-family residential lots through appropriate cross-access easements.

*Sidewalk* means a hard-surfaced walking area, including that portion of a public street or a pedestrian realm, that is between the back-of-curb and the adjacent property lines or public easement lines, and that is improved and designed for or is ordinarily used for pedestrian travel.

*Single-family residential* shall mean the use of a lot with one building designed for and containing not more than two separate units with facilities for living, sleeping, cooking and eating therein. A lot upon which is located a free-standing building containing one dwelling unit and a detached secondary

dwelling unit of not more than 900 square feet also shall be considered single-family residential. A building that contains one dwelling unit on one lot that is connected by a party wall to another building containing one dwelling unit on an adjacent lot shall be single-family residential.

*Softscape* means the horticultural elements of a landscape, including grass, ground cover, hedges, plantings, shrubs, soil, and vines.

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*Solid waste collection plan* means a plan that is filed with a single-family subdivision plat application for property located within the city that includes the following provisions to allow (i) the collection of solid waste without hindrance or obstruction of any adjacent public street, (ii) the frequency of solid waste collection as necessary to avoid a health hazard caused by the accumulation of solid waste, (iii) heavy trash removal, (iv) one or more sites for the placement of trash cans to serve all units within the subdivision without infringing on any required open space or parking areas required by this chapter, and (v) whether the city or another provider is expected to provide service.

*Special exception* shall mean a commission-approved adjustment to a requirement of article III of this chapter that is issued under section 42-82 of this Code.

*Special minimum building line block* means the area subject to a minimum building line requirement pursuant to subdivision B of division 3 of article III of this chapter that is composed of not less than one blockface and not more than two opposing blockfaces.

*Special minimum lot size area* means the area subject to a minimum lot size requirement pursuant to subdivision B of division 4 of article III of this chapter that is composed of not less than five contiguous blockfaces and not more than 500 lots within the same subdivision plat or not more than 400 lots within two or more contiguous subdivision plats.

*Special minimum lot size block* means the area subject to a minimum lot size requirement pursuant to subdivision B of division 4 of article III of this chapter that is composed of not less than one blockface and not more than two opposing blockfaces.

*Street* shall mean a public street or a permanent access easement.

*Street dedication plat* shall mean a plat that illustrates only the location and right-of-way of one or more public streets to be dedicated by the street dedication plat.

*Street width exception area* shall mean an area so designated by or pursuant to section 42-123 of this Code.

*Subdivide* shall mean the act or process of creating a subdivision.

*Subdivision* shall mean the division of a tract of land, including a lot, into two or more parts to lay out a subdivision of the tract, to lay out suburban, building or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts, regardless of whether the division is made by a metes and bounds description in a deed of conveyance or in a contract for deed, by using a contract of sale or other executory contract to convey or by using any other method. A subdivision does not include a division of land into parts greater than five acres, where each part has access to a public street and no public improvement is required to be dedicated. A subdivision includes a replat.

*Subdivision plat* shall mean (1) a map or plan prepared and approved pursuant to the applicable provisions of division II of this chapter showing the proposed subdivision of land or (2) an instrument recorded in the map, plat or real property records of the appropriate county showing the previous subdivision of property. A subdivision plat includes a replat, an amending plat and a vacating plat.

~~*Suburban area shall mean an area of the city or its extraterritorial jurisdiction that is not an urban area.*~~

*Title report* shall mean a current report, commitment, opinion or title policy that: (1) is prepared and executed by a title company authorized and in good standing to do business in the State of Texas or by an attorney licensed in the State of Texas; (2) provides a legal description of the property proposed to be subdivided or developed; (3) identifies the owner and lienholder of the property subject to the subdivision plat or development plat and the recording information of each instrument by which each owner or lienholder acquired its respective interest; and (4) describes all encumbrances of record that affect the property and the recording information of each instrument by which each encumbrance was established. A title report shall be current if it certifies that the records were examined not more than 30 days from the date of the application to which it applies. For purposes of a replat, a title report shall also include information regarding any deed restrictions applicable to the property or reflect that no deed restrictions apply.

*Tract* shall mean a parcel.

*Transit corridor street* means a right-of-way or easement that METRO has



proposed as a route for a guided rapid transit or fixed guideway transit system and that is included on the city's major thoroughfare and freeway plan (MTFP). Except for purposes of sections 42-~~154~~153 and 42-1545 of this chapter, a transit corridor street shall be a major thoroughfare street.

*Transit station* means a passenger loading or unloading facility of a route for a guided rapid transit or fixed guideway transit system owned and operated by the Metropolitan Transit Authority of Harris County, Texas (METRO). The term does not include the stations of a public bus system.

*Type 1 permanent access easement* shall mean a permanent access easement at least 50 feet in width that is designed and constructed like a public street in accordance with the design manual and contains one or more public utilities in an unpaved portion of the easement.

*Type 2 permanent access easement* shall mean a permanent access easement at least 28 feet in width that is designed and constructed like a private street serving a development that has no public utilities other than a public water line connected only to one or more fire hydrants that provides no domestic water services.

*Type A street* means a public street that intersects a transit corridor street and that abuts a blockface that is located within 1,320 feet walking distance of the end of an existing or proposed transit station platform.

~~*Urban area* shall mean the area included within and bounded by Interstate Highway 610 and any other area within the city so designated by the city council pursuant to section 42-101 of this Code.~~

*Utility district* shall mean a conservation and reclamation district organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, the creation or enlargement of which requires the consent of the city.

*Vacating plat* shall mean a vacating plat prepared and approved under the applicable provisions of chapter 212.

*Variance* shall mean a commission-approved deviation from the requirements of this chapter issued under section 42-81 of this Code.

## **Sec. 42-2. Scope.**

This chapter shall apply to all development and subdivision of land within the city and its extraterritorial jurisdiction. This chapter establishes the general rules and regulations governing plats, subdivisions and development of land within the city and its extraterritorial jurisdiction to promote the health, safety, morals and general welfare of the city and the safe, orderly and healthful development of the city.

**Sec. 42-3. Conflict with county regulations.**

This chapter shall not be applied in such a manner as to amend or alter any rules, regulations, procedures or policies lawfully and officially adopted by the governing body of any county in which there exists territory contained within the city's extraterritorial jurisdiction. In the circumstance where any rule, regulation, procedure or policy lawfully and officially adopted by the governing body of any county is less restrictive than that contained herein, the standards of this chapter shall apply; provided, however, to the extent that this chapter conflicts with any provision of the Harris County Road Law (Special Laws of the 33rd Texas Legislature, Regular Session, 1913, Chapter 17, as amended), then the provisions of that law, to the extent of conflict, shall apply.

**Sec. 42-4. Enforcement and penalties.**

(a) It shall be unlawful for any person to lay out, subdivide or plat any land into lots, blocks, tracts or streets within the city, or sell property therein and thereby, if the land has not been laid out, subdivided and platted in accordance with the requirements of this chapter.

(b) The building official shall not issue a building permit:

(1) For construction on property that was subdivided after March 15, 1963 unless the property is included in a subdivision plat approved and recorded in accordance with this chapter; or

(2) For a development unless there is attached to the application a development plat approved by the director or the commission.

**Sec. 42-5. Penal provisions applicable.**

(a) The violation of any provision of this chapter within the corporate limits of the city, including the failure to do any act or perform any duty that is required herein, shall be punishable as provided by section 1-6 of this Code. Each day a violation continues constitutes a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violation of this chapter.

(b) The violation of any provision of this chapter outside the corporate limits of the city but within the city's extraterritorial jurisdiction shall not constitute an offense, and no fine shall be applicable to the violation.

(c) In addition criminal prosecution, where applicable, the city shall have the right to seek the judicial remedies provided in section 42-6 of this Code for any violation of this chapter within the city or its extraterritorial jurisdiction.

**Sec. 42-6. Judicial provisions applicable.**

The city, acting through the city attorney or any other attorney representing the city, may file an action in a court of competent jurisdiction to:

- (1) Enjoin the violation or threatened violation by the owner of land of a requirement of this chapter applicable to the land; or
- (2) Recover damages from the owner of a tract of land in an amount adequate for the city to undertake any construction or other activity necessary to bring about compliance with this chapter.

**Sec. 42-7. Denial of utility connections.**

(a) The building official shall not issue any building permit or other permits required for the installation of any utility, either public or private, to serve:

- (1) Lots or tracts within the city for which a subdivision plat has not been properly recorded as required by this chapter; or
- (2) A development within the city that is subject to the provisions of this chapter, for which a development plat has not been properly approved as required by this chapter.

(b) The utility official shall not permit any tract of land to receive any service from the city water or wastewater collection systems unless, at the time of the application for service, the applicant provides to the utility official satisfactory evidence that the tract of land was subdivided or developed in compliance with this chapter.

(c) In those areas located within the city's extraterritorial jurisdiction, the utility official shall not approve any plans for the construction of any wastewater collection system or domestic water distribution system and the city engineer shall not approve any plans for the construction of storm drainage system within any utility district for which the city has granted its consent for creation or enlargement, unless and until the provisions of this chapter have been complied with for any tract of land served by utilities provided by the utility district.

**Sec. 42-8. Forms authorized.**

The director is authorized to promulgate forms to use in the implementation of this chapter, including forms for standardized language to be used on the face of subdivision plats and development plats. Prior to the use of any form, the city attorney or the city attorney's designee shall review the form for legal sufficiency and approve each form the city attorney or the city attorney's designee, in his sole professional judgment, determines to be legally sufficient.

**Sec. 42-9. Cumulative effect.**

This chapter is cumulative of other requirements imposed by ordinances and regulations of the city. To the extent of any inconsistency, the more restrictive provision shall govern.

**Secs. 42-10--42-19. Reserved.**

**ARTICLE II.**

**REQUIREMENTS AND PROCEDURES**

**DIVISION 1.**

**PLATTING REQUIREMENTS**

**Sec. 42-20. Subdivision plat required.**

(a) Except as provided in section 42-21 of this Code, any subdivision of property in the city and its extraterritorial jurisdiction shall require a subdivision plat approved pursuant to this article. Prior to the subdivision of any property within the city or its extraterritorial jurisdiction, the owner of the property proposed to be subdivided, or the owner's authorized agent, shall obtain approval from the commission or the director, as applicable, of a subdivision plat of the subdivision submitted pursuant to the requirements of this chapter. All property in the city and its extraterritorial jurisdiction that is subdivided shall be laid out under the direction of the commission, and the city will recognize no other subdivisions.

(b) The requirement to file and obtain approval of a subdivision plat may be met by filing either a class I plat, a class II plat or a class III plat, as applicable to the property proposed to be subdivided.

**Sec. 42-21. Exceptions to subdivision platting requirements.**

(a) A subdivision plat shall not be required for a subdivision of a reserve tract that is part of a subdivision plat approved by the commission or pursuant to this article if the reserve tract is not encumbered by a one-foot reserve and will not be used for single-family residential purposes.

(b) A subdivision plat shall not be required for a remainder tract that is included in a general plan previously approved by the commission or filed simultaneously with an application for a subdivision plat for any portion of the entire tract.

GRAPHIC UNAVAILABLE: [Click here](#)

(c) A subdivision plat shall not be required for the dedication of a public street if the dedication is accomplished through a street dedication plat approved by the commission pursuant to this article.

#### **Sec. 42-22. Development plat required.**

Development of property through the new construction or enlargement of any exterior dimension of any building, structure or improvement within the city or its extraterritorial jurisdiction shall require a development plat, except that the following types of development shall be exempt from this requirement:

- (1) Buildings, structures or improvements within the central business district;
- (2) Alterations to any building or improvement, including enclosing an existing canopy or porte-cochere, that do not increase the exterior square footage by more than 100 square feet and that do not result in an encroachment into the building line requirement; An encroachment into a building line requirement authorized by section 42-151 of this Code shall not constitute an encroachment for the purposes of this section;
- (3) Construction of a detached single-family residential unit (or enlargement thereto) that meets the requirements of article III of this chapter on a lot that is part of, and in a manner that complies with, a recorded subdivision plat or an unrecorded subdivision plat that is recognized as a plat for the purposes of property conveyance;
- (4) A parking lot or expansion thereof;
- (5) A retaining wall, masonry wall or fence under eight feet high; or
- (6) Placement of a temporary classroom building at a public school facility.

#### **Sec. 42-23. Classes of subdivision plat.**

(a) There are hereby established three classes of subdivision plat: a class I plat, a class II plat and a class III plat. Class I plats and class II plats are optional and may be used in lieu of a class III plat if the subdivision plat meets the qualifications of this section.

(b) A class III plat is required for subdivisions that require or propose the creation of any new street or the dedication of any easement for public water, wastewater collection or storm sewer lines. A class III plat is also required for a vacating plat. Subdivisions that do not require or propose the creation of any new street or the dedication of any easement for public water, wastewater collection or storm sewer lines, at the option of the applicant, may be submitted as either a class I plat or a class II plat as determined by the respective applicable criteria, or may be submitted as a class III

plat.

(c) A class II plat is a subdivision plat that:

- (1) Does not require or propose the creation of any new street;
- (2) Does not require or propose the dedication of any easement for public water, wastewater collection or storm sewer lines; and
- (3) Is not a replat that requires notification of adjacent property owners pursuant to chapter 212.

(d) A class I plat is a subdivision plat that either meets the four criteria below or is an amending plat:

- (1) Creates no more than four lots each fronting on an existing street;
- (2) Does not require or propose the creation of any new street;
- (3) Does not require or propose the dedication of any easement for public water, wastewater collection or storm sewer lines; and
- (4) Is not a replat.

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

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

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(b) The general plan shall show:

- (1) The alignment of any major thoroughfares within or adjacent to the property in accordance with the major thoroughfare and freeway plan and all collector streets that are necessary to demonstrate an overall circulation system for the property that will meet the requirements of article III of this chapter;
- (2) Recorded easements; and
- (3) At the option of the applicant, one or more local streets, which shall extend into and connect with existing local streets and be consistent with local streets shown on any general plans for abutting property.

(c) The general plan also may identify the number of sections anticipated to be platted pursuant to the general plan and proposed land uses including single-family residential, multi-family residential, restricted and unrestricted reserves, utility plant sites, drainage and detention facilities and proposed easements affecting the subdivision of the property.

(d) Commission approval of a general plan shall be noted on the face of the plan and shall be applicable only to the major thoroughfare, collector street pattern and any local street shown on the general plan.

(e) The general plan may be amended in the same manner required for approval of the initial general plan.

(f) A general plan shall remain in effect for four years from the date of commission approval, subject to extension as provided herein. Any amendment of the general plan shall not result in an extension of the effective period. Recordation of a subdivision plat for a section within the general plan during the effective period of the general plan shall renew the general plan for an additional four years from the expiration date of the general plan if the recorded subdivision plat meets the following requirements:

- (1) The subdivision plat is consistent with the general plan; and
- (2) The subdivision plat represents the lesser of 20 percent of the total acreage in the general plan or 25 acres.

Recordation of a street dedication plat shall not extend the effective period of a general plan; provided, however, that a street dedication plat that dedicates a major thoroughfare or a collector to its points of connection with adjacent properties as shown on the general plan shall extend the general plan for four years. Nothing shall prohibit an applicant from filing an application for a general plan for the same property that was included in an expired general plan.

(g) As long as the general plan remains in effect, the street system approved in the general plan shall form the basis for street system extensions into adjacent properties to be platted, unless the subdivider of such properties demonstrates that the requirements of article III of this chapter can be met without the street extensions.

#### **Sec. 42-25. Street dedication plat.**

A street dedication plat is a plat that may be filed at the option of an applicant to dedicate one or more public streets. Except as provided in this section, a street dedication plat shall not be approved unless the commission previously has approved a general plan for the area in which the street dedication plat is located.

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**Secs. 42-26--42-39. Reserved.**

## DIVISION 2.

### APPLICATION REQUIREMENTS

#### **Sec. 42-40. Basic subdivision plat submittal requirements.**

(a) An application for the approval of a subdivision plat shall be filed with the department in the form prescribed by the director for the respective class of subdivision plat, and shall:

- (1) Be made on an application form provided by the department;
- (2) Provide all required materials, in the quantity and manner prescribed by the director, on paper, on a computer disc or on electronic media;
- (3) Be accompanied by an affidavit of the owner, or the owner's authorized agent with duty to inquire, regarding all contiguous land under common ownership or control;
- (4) Meet the graphic and legal requirements of sections 42-41 through 42-45 of this Code, as applicable; and
- (5) Be accompanied by the applicable filing fee.

(b) An application for the approval of a subdivision plat that is a replat shall also be accompanied by a current title report and shall comply with the notice provisions of section 42-49 of this Code, where applicable.

(c) A class III plat shall be first submitted for review as a preliminary plat in accordance with the requirements below.

(d) The application to plat a single-family subdivision inside the city must be accompanied by a solid waste collection plan, as defined in this chapter, which plan shall be subject to the approval of the director of solid waste. An approved plan is a prerequisite to plat approval. The plan must be noted on the plat by a note placed on the face of the plat indicating whether the development is eligible or ineligible for solid waste collection provided by the city, as applicable, utilizing one of the following forms.

- (1) THE RESIDENTIAL UNITS OR LOTS ENCOMPASSED BY THIS PLAT ARE INELIGIBLE FOR SOLID WASTE COLLECTION SERVICES PROVIDED BY THE CITY AT THE TIME OF THE FILING OF THE PLAT. THE OBLIGATION TO PROVIDE SOLID WASTE COLLECTION



SERVICES SHALL BE THE SOLE RESPONSIBILITY OF THE OWNERS OF PROPERTY IN THE SUBDIVISION. NOTWITHSTANDING THE FOREGOING, THE CITY RESERVES THE RIGHT TO AMEND THE LEVEL OF SOLID WASTE COLLECTION SERVICES IT PROVIDES; or

- (2) THE RESIDENTIAL UNITS OR LOTS LOCATED IN THIS SUBDIVISION ARE ELIGIBLE FOR SOLID WASTE COLLECTION SERVICES BY THE CITY AT THE TIME OF THE FILING OF THE PLAT. NOTWITHSTANDING THE FOREGOING, THE CITY RESERVES THE RIGHT TO AMEND THE LEVEL OF SOLID WASTE COLLECTION SERVICES IT PROVIDES.

**Sec. 42-41. Additional requirements--All subdivision plats.**

Each preliminary or final subdivision plat, regardless of class, shall:

- (1) State the proposed name of the subdivision, which shall conform to the following requirements:

- a. The name shall not be a duplicate of any subdivision or development of record within the city or its extraterritorial jurisdiction; and

- b. The name of a subdivision plat subject to the provisions of section 42-49 of this Code that is a partial replat of a preceding subdivision plat where all of the lots in the preceding plat are subject to the same separately filed deed restrictions shall be the name of the prior subdivision plat followed by "partial replat no. X", where "X" represents the next sequential number of partial replats of the prior subdivision. To illustrate, the first partial replat of "Sunny Land Subdivision" would be named "Sunny Land Subdivision partial replat no 1," the second partial replat would be named "Sunny Land Subdivision partial replat no 2," and so on;

- (2) Provide the legal description of the property proposed to be subdivided, including the name of the county, survey and abstract number and a reference to the nearest corner or street right-of-way intersection in the general area;
- (3) Show the location of all streets, shared driveways, alleys and easements within the subdivision plat boundaries;
- (4) Show the location of all building lines required by this chapter;
- (5) State the total acreage within the subdivision and the total number of lots,

blocks and reserves;

- (6) Identify the owner of the property. If the owner of the property is not a natural person, state the name of the entity along with the name of the ~~person~~-individual authorized to execute the subdivision plat on behalf of the entity;
- (7) Identify the person or firm who prepared the plat;
- (8) Indicate the date on which the plat was drawn;
- (9) Provide a north arrow;
- (10) Orient the layout of the subdivision with north to the top of the drawing;
- (11) Provide the numeric and graphic scale for the subdivision;
- (12) Orient the subdivision within the larger area by providing a vicinity map;
- (13) Draw plat boundaries with heavy lines to indicate the subdivided area;
- (14) Identify adjacent areas outside the plat boundaries indicating the name of the adjacent subdivisions, churches, schools, parks, bayous and drainage ways, acreage and all existing streets, easements, pipelines and other restricted uses;
- (15) Identify blocks and lots within a subdivision by consecutive numbers; lot numbering may be cumulative throughout the subdivision so long as the numbering system continues from block to block in a uniform manner; and
- (16) Identify reserves by alphabetical letter.

**Sec. 42-42. Additional requirements--Class I plat and class II plat.**

In addition to the requirements of section 42-41 of this Code, applications for a class I plat or a class II plat shall meet the following requirements so that the subdivision plat is suitable for recordation upon approval by the director or the commission, as applicable:

- (1) The class I plat or class II plat shall be drawn on positive photographic film with black lines and image and shall be suitable for the reproduction of direct positive prints and reproductions;
- (2) The scale shall be one of the following:
  - a. One inch to 20 feet;

- b. One inch to 30 feet;
- c. One inch to 40 feet;
- d. One inch to 50 feet;
- e. One inch to 60 feet; or
- f. One inch to 100 feet;

provided that the director may authorize the use of a different scale when the director determines that circumstances warrant a different scale.

- (3) The subdivision plat shall show all engineering and surveying data in a manner and to an extent sufficient to locate all of the features of the subdivision plat on the ground, including the following:
  - a. Full dimensions along all boundaries of the subdivision plat;
  - b. Full dimensions of all shared driveways;
  - c. Full dimensions of all easements, drainageways, gullies, creeks and bayous;
  - d. Full dimensions of all lots, blocks, reserves, out-tracts, compensating open space and any other tracts designated separately within the subdivision plat boundaries; and
  - e. Full dimensions of all fee strips, pipelines and other physical and topographical features necessary to be accurately located by surveying methods.

Full dimensions shall include line dimensions, bearings of deflecting angles, radii, central angles and degrees of curvature and lengths of curves and tangent distances, all of which shall be shown in feet and decimal fractions thereof.

- (4) The subdivision plat shall identify and note the intended use of all lots and reserves. In those instances where the intended use of a reserve has not been determined, the reserve shall be identified as unrestricted and so noted on the subdivision plat;
- (5) All dedication statements and certificates shall be included on the subdivision plat;
- (6) The name of each ~~person~~individual who will sign the subdivision plat shall

be lettered under a line provided for the signature;

- (7) For each class 1 plat and, at the option of the applicant for a class 2 plat, materials for recordation as provided in section 42-45 of this Code shall be submitted; ~~and~~
- (8) A current title report shall be submitted~~-;~~ and
- (9) An existing conditions survey shall be submitted for a class II plat if required by the provisions of section 42-56 of this Code.

#### **Sec. 42-43. Additional requirements--Class III plat--Preliminary plat.**

In addition to the requirements of section 42-41 of this Code, applications for a preliminary class III plat shall:

- (1) Show the location and approximate dimensions of all blocks and reserves and approximate dimensions typical for lots within the subdivision plat boundaries;
- (2) Provide survey dimensions and bearings for the boundaries of the subdivision plat, with lines outside the subdivision plat boundary, if any, drawn as dashed lines;
- (3) Show the location and approximate width of existing and proposed watercourses, ravines and drainage easements within the subdivision plat boundaries; ~~and~~
- (4) Be accompanied by an affidavit of the owner, or the owner's authorized agent with duty to inquire, identifying all encumbrances on the property inside the subdivision plat boundaries~~-;~~ and
- (5) Be accompanied by an existing conditions survey if required by the provisions of section 42-56 of this Code.

#### **Sec. 42-44. Additional requirements--Class III plat--Final plat.**

In addition to the requirements of section 42-41 of this Code, applications for a final class III plat shall:

- (1) Incorporate all of the provisions relating to preliminary plats and reflect the conditions and requirements of final subdivision plat approval previously imposed by the commission;
- (2) Be drawn on positive photographic film with black lines and image and be

suitable for the reproduction of direct positive prints and reproductions;

(3) Use one of the following scales:

- a. One inch to 20 feet;
- b. One inch to 30 feet;
- c. One inch to 40 feet;
- d. One inch to 50 feet;
- e. One inch to 60 feet; or
- f. One inch to 100 feet;

provided that the director may authorize the use of a different scale when the director determines that circumstances warrant a different scale;

(4) Show all engineering and surveying data in a manner and to an extent sufficient to locate all of the features of the subdivision plat on the ground, including the following;

- a. Full dimensions along all boundaries of the subdivision plat;
- b. Full dimensions of all shared driveways;
- c. Full dimensions of all easements, drainageways, gullies, creeks and bayous;
- d. Full dimensions of all lots, blocks, reserves, out-tracts, compensating open space and any other tracts designated separately within the subdivision plat boundaries; and
- e. Full dimensions of all fee strips, pipelines and other physical and topographical features necessary to be accurately located by surveying methods.

Full dimensions shall include line dimensions, bearings of deflecting angles, radii, central angles and degrees of curvature and lengths of curves and tangent distances, all of which shall be shown in feet and decimal fractions thereof;

(5) The intended use of all lots and reserves; in those instances where the intended use of a reserve has not been determined, the reserve shall be identified as unrestricted and so noted on the subdivision plat;

- (6) Include all dedication statements and certificates; and
- (7) Include a current title report.

**Sec. 42-45. Additional requirements for recordation of subdivision plats.**

After approval of a class I plat, a class II plat or a final class III plat, the applicant shall present the following to the department for recordation of the subdivision plat:

- (1) The original subdivision plat drawing prepared on any suitable permanent translucent material of positive photographic film with lines, lettering and signatures in black ink or image, and the names of all ~~persons~~ individuals signing the subdivision plat lettered under the respective signature. The original subdivision plat drawing shall evidence compliance with all conditions of final plat approval;
- (2) A current update of the previously submitted title report that reflects any change in any of the conditions or information required in the title report since the date of the last title report, including that there has been no change, if applicable;
- (3) An executed recorded map return agreement;
- (4) Certification that all current city, county and school district taxes have been paid and that there are no delinquent taxes on the property, which may be provided as part of the title report or in the form of a certificate from the city, if applicable, and from the county and the school district in which the land being subdivided is located.
- (5) For a vacating plat, the original vacation instrument.

**Sec. 42-46. Development plat submittal requirements.**

An application for the approval of a development plat shall be filed with the department, and shall:

- (1) Be made on an application form provided by the department;
- (2) Provide two copies of a survey sealed and certified by a Texas registered professional land surveyor showing:
  - a. The location of each existing building, structure or improvement;
  - b. Each easement and right-of-way within or abutting the boundary of the surveyed property, tied to a street intersection or landmark; and

- c. The dimensions of each sidewalk, alley, square, park or other part of the property intended to be dedicated to public use or for the use of purchasers of property fronting on or adjacent to the sidewalk, alley, square, park or other part.

The survey does not have to be recent so long as it illustrates all contiguous property under one ownership or common control;

- (3) Include three copies of a site plan illustrating:
  - a. Proposed and existing buildings (where applicable), stairways, fences and adjacent roadways;
  - b. Parking that meets the applicable requirements of this chapter and chapter 26 of this Code;
  - c. Landscaping that meets the applicable requirements of chapter 33 of this Code; and
  - d. Screening for bulk containers that meets the applicable requirements of article VI of chapter 39 of this Code; and

- (4) Be accompanied by the applicable filing fee.

**Sec. 42-47. Applications requesting variance.**

(a) The application for a general plan subdivision plat or development plat requesting a variance from any requirement of this chapter shall:

- (1) Identify the specific requirement for which the variance is sought;
- (2) State the extent of the variance sought;
- (3) Provide a detailed explanation of the hardship that justifies the granting of the variance; and
- (4) Provide a statement of facts addressing each of the conditions for commission approval provided in section 42-81 of this Code.

(b) An application may be amended to request one or more variances that were not requested in the initial application.

(c) The application for a general plan, subdivision plat or development plat requiring notification pursuant to part a. of section 42-83(a)(1) of this Code shall provide the following:

- (1) A list identifying all owners of lots that are within 250 feet of the boundary of the plat as well as all lots or tracts that are along or across from a blockface that abuts any street or private roadway extending 500 feet from the plat as measured along the centerline of any street or private roadway that abuts the boundary of the plat, as shown on the most ~~recently approved ad valorem tax rolls of the city~~ current appraisal district records.
- (2) One stamped envelope addressed to each landowner indicated on the tax roll list as provided above containing a copy of the notice in the form specified by the director and approved by the city attorney.

**Sec. 42-48. Applications requesting special exception.**

(a) The application for a general plan subdivision plat or a development plat requesting a special exception from any requirement of article III of this chapter shall:

- (1) Identify the specific requirement for which the special exception is sought;
- (2) State the extent of the special exception sought;
- (3) Provide a detailed explanation of the circumstances and facts that justify the granting of the special exception; and
- (4) Provide a statement addressing each of the conditions for commission approval provided in section 42-82 of this Code.

(b) An application may be amended to request one or more special exceptions that were not requested in the initial application.

(c) The application for a general plan, subdivision plat or development plat requiring notification pursuant to part a. of section 42-83(a)(1) of this Code shall provide the following:

- (1) A list identifying all owners of lots that are within 250 feet of the boundary of the plat as well as all lots or tracts that are along or across from a blockface that abuts any street or private roadway extending 500 feet from the plat as measured along the centerline of any street or private roadway that abuts the boundary of the plat, as shown on the most ~~recently approved ad valorem tax rolls of the city~~ current appraisal district records.
- (2) One stamped envelope addressed to each landowner indicated on the tax roll list as provided above containing a copy of the notice in the form specified by the director and approved by the city attorney.

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



(a) A subdivision plat that is a replat subject to the provisions of section 212.015 of chapter 212 shall provide the following:

- (1) A written statement indicating the applicant's intention to seek commission approval under the requirements of section 212.015 of chapter 212.
- (2) A list identifying all owners of lots that are within 250 feet of the lots to be replatted, as well as all lots or tracts that are along or across from a blockface that abuts any street or private roadway extending 500 feet from the plat as measured along the centerline of any street or private roadway that abuts the boundary of the plat, as shown on the most recently approved ad valorem tax rolls of either the city or, in the case of a replat in the city's extraterritorial jurisdiction, the county in which the property proposed to be replatted is located.
- (3) One stamped envelope addressed to each landowner indicated on the tax roll list as provided above containing a copy of the notice in the form specified by the director and approved by the city attorney.

(b) The applicant shall cause notice of the required public hearing to be published before the 15th day 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 subdivision plat, the applicant shall provide an affidavit of publication to the department.

(c) The applicant shall post at least one sign on the property that is the subject of the replat before the 15th day before the date of the public hearing. A sign shall face each public right-of-way bordering the site and the lettering on the sign shall be legible from the public right-of-way. 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. The applicant shall use reasonable efforts to maintain each required sign on the site before the close of the public hearing.

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

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

- (1) Be made on an application form provided by the department;
- (2) Provide all required materials, in the quantity and manner prescribed by the director, on paper, on a computer disc or on electronic media;
- (3) Be accompanied by an affidavit of the owner, or the owner's authorized

agent with duty to inquire, identifying all encumbrances on the property inside the general plan boundary;

- (4) State the proposed name of the general plan, which shall not be a duplicate of any subdivision or development of record within the city or its extraterritorial jurisdiction;
- (5) Provide the legal description of the property in the general plan, including the name of the county, survey and abstract number and a reference to the nearest corner or street right-of-way intersection in the general area;
- (6) Show the location of all collector streets and major thoroughfares, and at the option of the applicant, all local streets, within the general plan boundaries;
- (7) State the total acreage within the general plan;
- (8) Identify the owner of the property; if the owner of the property is not a natural person, state the name of the entity along with the person individual authorized to execute the general plan on behalf of the entity;
- (9) Identify the person or firm who prepared the general plan;
- (10) Indicate the date on which the general plan was drawn;
- (11) Provide a north arrow;
- (12) Orient the layout of the general plan with north to the top of the drawing;
- (13) Provide a numeric and graphic scale, which shall be a minimum of 1" = 600' and no greater than 1" = 100';
- (14) Orient the general plan within the larger area by providing a vicinity map;
- (15) Have boundaries drawn with heavy lines to indicate the area included in the general plan;
- (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, streets and pipelines within and adjacent to the general plan boundaries;
- (17) Provide survey dimensions and bearings for the boundaries of the general plan, with lines outside the general plan boundaries, if any, drawn as dashed lines; and

- (18) Be accompanied by the applicable filing fee.

**Sec. 42-51. Street dedication plat submittal requirements.**

An application for the approval of a street dedication plat shall be filed with the department, and shall:

- (1) Be made on an application form provided by the department;
- (2) Provide all required materials, in the quantity and manner prescribed by the director, on paper, on a computer disc or on electronic media;
- (3) Be accompanied by an affidavit of the owner, or the owner's authorized agent with duty to inquire, identifying all encumbrances on the property inside the street dedication plat boundary;
- (4) State the proposed name of the street dedication plat, which shall not be a duplicate of any subdivision or development of record within the city or its extraterritorial jurisdiction;
- (5) Provide the legal description of the property proposed to be dedicated, including the name of the county, survey and abstract number and a reference to the nearest corner or street right-of-way intersection in the general area;
- (6) State the total acreage within the street dedication plat;
- (7) Identify the owner of the property. If the owner of the property is not a natural person, state the name of the entity along with the name of the person-individual authorized to execute the street dedication plat on behalf of the entity;
- (8) Identify the person or firm who prepared the street dedication plat;
- (9) Indicate the date on which the plat was drawn;
- (10) Provide a north arrow;
- (11) Orient the layout of the street dedication plat with north to the top of the drawing;
- (12) Provide a numeric and graphic scale, which shall be a minimum of 1" = 100' and no greater than 1" = 20';
- (13) Orient the street dedication plat within the larger area by providing a

vicinity map;

- (14) Draw plat boundaries with heavy lines;
- (15) Provide survey dimensions and bearings for the boundaries of the street dedication plat, with lines outside the street dedication plat boundaries, if any, drawn as dashed lines; and
- (16) Be accompanied by the applicable filing fee.

#### **Sec. 42-52. Initial review by director.**

The director initially shall review each application for subdivision plat, development plat, general plan and street dedication plat for completeness. If the director determines that the application is complete, the application shall be acted upon as further provided in this article. If the director determines that the application is incomplete, he or she shall return the application with an explanation of the deficiency.

#### **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 Monday of the week before the next regularly scheduled meeting of the commission shall be placed on the agenda for consideration by the commission at that meeting. If the Monday of the week preceding a regularly scheduled commission meeting is a city holiday, complete applications that are submitted to the department on the first city business day following the Monday holiday shall be placed on the agenda for consideration by the commission at that meeting.

(b) 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 the next meeting for which proper notice can be given.

(c) Replats that require notice to property owners pursuant to chapter 212 shall be placed on the commission agenda for consideration on the date established for the public hearing required by chapter 212.

(d) 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 the next meeting for which proper notice can be given.

#### **Sec. 42-54. Application fees.**

The director ~~shall~~ may, from time to time, with the assistance of the department of finance, pursuant to Administrative procedure 4-9, prepare and submit for approval by

motion of the city council revisions to the ~~a~~ schedule of fees that shall be paid by an applicant for a subdivision plat, development plat, general plan and street dedication plat. 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. 42-55. Private easement holder's consent.**

Prior to recordation of the subdivision plat, the applicant shall submit a written instrument from the owner of any privately owned easement or fee strip within the plat boundaries that is proposed to be crossed by a street, private street, shared driveway or public utility or drainage easement. The instrument must state that the owner of the easement or fee strip consents to each crossing for the purposes intended and depicted upon the subdivision plat. In those instances where the applicant submits an instrument of record in lieu of a letter or statement from the owner of the private easement or fee strip, the department shall then refer the recorded instrument to the city attorney for determination of whether the conditions contained in the recorded instrument adequately provide or accommodate the crossing of the private easement or fee strip by the proposed street, private street, shared driveway or public utility or drainage easement depicted on the plat. If the city attorney determines that the recorded instrument is not adequate, the applicant shall then submit evidence of the consent of the owner of the private easement or fee strip.

**Sec. 42-56. Application requirements – existing conditions survey.**

Each class II and class III preliminary plat providing for single-family residential use on a tract within the city shall provide an existing conditions survey that illustrates the location of any of the following:

- (1) Curbs, driveways, utility poles, meters, fire hydrants, storm sewer inlets, and other physical features on the tract or in the public right-of-way within 10 feet of the tract;
- (2) Recorded easements on the tract;
- (3) Trees located within the public right-of-way within 10 feet of the tract or within the building setback area as that term is defined by article V of Chapter 33 of this Code;
- (4) Roadways and sidewalks including the paving section width on the tract and in the public right-of-way within 10 feet of the tract; and
- (5) Public rights-of-way including the width on or adjacent to the tract.

**Secs. 42-~~5657~~--42-69. Reserved.**

DIVISION 3.

REVIEW PROCEDURES

**Sec. 42-70. In general.**

This division establishes the procedures for the review of applications for subdivision plats, development plats, general plans and street dedication plats. As provided in this division, the director is authorized to approve class I plats and development plats that meet the requirements of this chapter. Only the commission is authorized to approve class II plats, class III plats, general plans, street dedication plats and any class I plat or development plat that the director refers to the commission. The following chart is a summary of the approval process intended for illustrative purposes only. In case of conflict between the chart and the text, the text shall prevail.

	Class I plat	Class II plat	Class III plat	Dev. plat
Administrative Approval	Yes	No	No	Yes
Planning Comm'n Approval Required				
• Always	No	Yes	Yes	No
• For plat with variance or special exceptions	Yes	Yes	Yes	Yes
• For replat	N/A	Yes	Yes	N/A
Preliminary approval required	No	No	Yes	N/A

**Sec. 42-71. Commission consideration and action.**

(a) The commission shall consider and act on each class III plat submitted to it on a preliminary basis and upon a final basis. The commission shall consider and act on each class II plat submitted to it on a final basis. The commission shall consider and act on each subdivision plat or development plat that requests a variance or special exception. The commission also shall consider and act on each class I plat or development plat that is referred to the commission by the director.

(b) The commission shall approve each subdivision plat that complies with the provisions of this chapter and other applicable laws and requirements.

(c) The approval of any subdivision plat that is encompassed by a general plan approved by the commission shall reflect a determination that the subdivision plat is consistent with that general plan.

**Sec. 42-72. Commission consideration and action--Class I plat.**

(a) The commission shall consider and act on each class I plat for which a variance or special exception is requested as provided in this subsection. Upon consideration of a class I plat for which a variance to or special exception from the

requirements of article III of this chapter is requested, the commission shall:

- (1) Approve the class I plat, with or without conditions, if the commission finds that it meets the applicable requirements of this chapter and other applicable law;
- (2) Grant one or more requested variances or special exceptions in whole or in part, with or without conditions, upon satisfaction of the requirements of section 42-81 or section 42-82 of this Code, as applicable, and approve the class I plat with the variance or special exception so granted;
- (3) Deny any requested variance or special exception, if the commission is unable to make the findings necessary for granting a variance or a special exception pursuant to sections 42-81 or 42-82 of this Code and approve the class I plat without the variance or special exception so denied;
- (4) Defer action until the next regular meeting, but not to exceed 30 days from the filing date; or
- (5) Disapprove the class I plat upon finding that it fails to comply with all the applicable requirements of this chapter or other applicable law.

(b) The commission shall consider and act on each class I plat referred to it by the director, as provided in this subsection. Upon consideration of a class I plat referred to it by the director, the commission shall:

- (1) Approve the class I plat upon finding that it complies with the applicable requirements of this chapter and other applicable law;
- (2) Disapprove the class I plat upon finding that it fails to comply with the applicable requirements of this chapter or other applicable law; or
- (3) Defer action until the next regular meeting, but not to exceed 30 days from the filing date.

#### **Sec. 42-73. Commission consideration and action--Class II plat.**

The commission shall consider and act on each class II plat as provided in this section. Upon consideration of a class II plat, the commission shall:

- (1) Grant final approval of the class II plat, with or without conditions, if the commission finds that it meets the requirements of this chapter and other applicable law;
- (2) Grant one or more requested variances or special exceptions in whole or in part, with or without conditions, upon satisfaction of the requirements of

section 42-81 or section 42-82 of this Code, as applicable, and approve the class II plat with the variance or special exception so granted;

- (3) Deny any requested variance or special exception, if the commission is unable to make the findings necessary for granting a variance or a special exception pursuant to sections 42-81 or 42-82 of this Code and approve the class II plat without the variance or special exception so denied;
- (4) Defer action until the next regular meeting, but not to exceed 30 days from the filing date; or
- (5) Disapprove the class II plat upon finding that it fails to comply with all the applicable requirements of this chapter or other applicable law.

**Sec. 42-74. Commission consideration and action--Class III plat.**

(a) The commission shall consider and act on each preliminary class III plat and each final class III plat as provided in this section.

(b) Upon consideration of a preliminary class III plat, the commission shall:

- (1) Grant approval of the preliminary class III plat, with or without conditions, upon finding that it meets all the applicable requirements of this chapter and other applicable law;
- (2) Approve one or more requested variances or special exceptions, in whole or in part, with or without conditions, pursuant to section 42-81 or section 42-82 of this Code, as applicable, and approve the preliminary class III plat with the variance or special exception so granted;
- (3) Deny any requested variance or special exception, if the commission is unable to make the findings necessary for granting a variance or a special exception pursuant to sections 42-81 or 42-82 of this Code and approve the preliminary class III plat without the variance or special exception so denied;
- (4) Defer action until the next regular meeting, but not to exceed 30 days from the filing date; or
- (5) Disapprove the preliminary class III plat upon finding that it fails to comply with all the applicable requirements of this chapter or other applicable law.

(c) Upon consideration of a final class III plat, the commission shall:

- (1) Grant final approval, with or without conditions, if the final class III plat complies with all the applicable requirements of this chapter and other



applicable law and with the conditions of preliminary approval;

- (2) Defer final action until the next regular meeting, but not to exceed 30 days from the filing date; or
- (3) Disapprove the final class III plat upon finding that it fails to comply with the applicable requirements of this chapter or other applicable law or with any conditions of approval of the preliminary plat.

**Sec. 42-75. Commission consideration and action--Development plat.**

(a) The commission shall consider and act on each development plat for which a variance or special exception is requested as provided in this subsection. Upon consideration of a development plat for which a variance or special exception is requested, the commission shall:

- (1) Approve the development plat, with or without conditions, if the commission finds that it meets the applicable requirements of this chapter and other applicable law;
- (2) Grant one or more requested variances or special exceptions in whole or in part, with or without conditions, pursuant to section 42-81 or section 42-82 of this Code, as applicable, and approve the development plat with the variance or special exception so granted;
- (3) Deny any requested variance or special exception, if the commission is unable to make the findings necessary for granting a variance or special exception pursuant to sections 42-81 or 42-82 of this Code and approve the development plat without the variance or special exception so denied;
- (4) Defer action until the next regular meeting, but not to exceed 30 days from the date of initial commission consideration; or
- (5) Disapprove the development plat if the commission finds that it fails to comply with all the requirements of this chapter or other applicable law.

(b) The commission shall consider and act on each development plat referred to the commission by the director as provided in this subsection. Upon consideration of a development plat referred to it by the director, the commission shall:

- (1) Approve the development plat if the commission finds that it complies with the applicable requirements of this chapter and other applicable law;
- (2) Disapprove the development plat if the commission finds that it fails to comply with the applicable requirements of this chapter or other applicable law; or

- (3) Defer action until the next regular meeting, but not to exceed 30 days from the initial commission consideration.

**Sec. 42-76. Commission consideration and action--General plan.**

The commission shall consider and act on applications for a general plan as provided in this section. Approval of a general plan by the commission shall be limited to the location and alignment of major thoroughfares, collector streets and any local streets shown on the general plan. Upon consideration of a general plan the commission shall:

- (1) Approve the general plan if the commission finds that the general plan complies with the applicable requirements of this chapter with respect to the location of major thoroughfares, collector streets and any local streets shown on the general plan;
- (2) Grant one or more requested variances or special exceptions in whole or in part, with or without conditions, pursuant to section 42-81 or section 42-82 of this Code, as applicable, and approve the general plan with the variance or special exception so granted;
- (3) Deny any requested variance or special exception, if the commission is unable to make the findings necessary for granting a variance or special exception pursuant to section 42-81 or section 42-82 of this Code, as applicable, and approve the general plan without the variance or special exception so denied; or
- (4) Disapprove the general plan if the commission finds that the general plan does not comply with the applicable requirements of this chapter with respect to the location of major thoroughfares, collector streets and any local streets shown on the general plan.

**Sec. 42-77. Commission consideration and action--Street dedication plat.**

The commission shall consider and act on applications for street dedication plats as provided in this section. Upon consideration of a street dedication plat the commission shall:

- (1) Approve the street dedication plat if the commission finds that the street dedication plat is consistent with a previously approved general plan encompassing each street to be dedicated by the street dedication plat; or
- (2) Disapprove the street dedication plat if the commission finds that the street dedication plat is not consistent with a previously approved general plan encompassing each street to be dedicated by the street dedication

plat.

**Sec. 42-78. Director consideration and approvals.**

(a) The director shall consider applications for class I plats and development plats as provided in this section. Upon consideration of a class I plat or a development plat the director shall:

- (1) Approve the class I plat or the development plat if it complies with the requirements of this chapter; or
- (2) Refer the class I plat or the development plat to the commission if the director finds that it does not comply with the requirements of this chapter.

(b) If the director refers a class I plat or a development plat to the commission as provided in this section, the director shall promptly notify the applicant that the class I plat or the development plat has been referred to the commission and will be considered by the commission at the next meeting for which proper notice can be given.

(c) An applicant for a class I plat or development plat that the director refers to the commission pursuant to this section shall be entitled to amend the application for the class I plat or development plat to seek one or more variances or special exceptions. The commission shall consider and act on a class I plat or development plat amended as provided by this subsection pursuant to the standards of sections 42-72(a) or 42-75(a) of this Code, as applicable.

(d) If an applicant does not amend an application for a class I plat or development plat, the director shall refer the application to the commission for consideration at the first commission meeting for which proper notice can be given. The commission shall consider and act on a class I plat or development plat referred as provided by this subsection pursuant to the standards of sections 42-72(b) or 42-75(b) of this Code, as applicable.

**Sec. 42-79. Reconsideration of subdivision plat approval conditions.**

(a) At the request of the owner of a proposed subdivision, at any time during the period a previous commission approval of a subdivision plat remains valid, but prior to the time that the subdivision plat is filed of record, the commission may reconsider any requirement or condition of approval imposed by it. A request for reconsideration shall:

- (1) Be made in writing;
- (2) Be submitted to the director in conformance with the provisions of section 42-53 of this Code regarding the submittal of subdivision plats;

- (3) State the specific requirement or condition of approval requested to be reconsidered and the reasons for reconsideration; and
- (4) Be accompanied by the applicable fee.

(b) Upon consideration of a request for reconsideration, the commission shall reaffirm its previous actions or shall approve the request for reconsideration, with or without conditions, as the commission finds the merits of the situation warrant. The director shall not calendar a request to reconsider the same requirement or condition of approval once the commission has rendered a decision upon a request for reconsideration unless the applicant presents new information that was not known by the applicant at the time of the original reconsideration.

(c) If the relief requested by the applicant requires a variance or special exception, the applicant shall submit a complete amended application for the subdivision plat that contains all of the information required by section 42-47 or 42-48 of this Code, as applicable, and the commission shall make the findings necessary for the granting of a variance or special exception, as applicable, in considering the request for reconsideration.

(d) Each request for reconsideration shall be subject to all public hearing and notification requirements that applied to the subdivision plat for which the request for reconsideration is made or that apply to the request for reconsideration. The applicant shall be responsible for providing current information pursuant to section 42-49 of this Code.

**Sec. 42-80. Expiration of subdivision plat and development plat approval; extension of approval.**

(a) Approval of a preliminary or final class III plat or a class II plat shall be valid for a period of 121 months from the date on which the commission approved the preliminary or final subdivision plat. The commission shall extend the period of validity of an unrecorded class II plat or class III plat for not more than 12 months from the original expiration date upon the written request of the owner of the land subject to the subdivision plat.

(b) Approval of a class I plat shall be valid for a period of 12 months from the date on which the director or commission, as applicable, approved the class I plat. The director shall extend the period of validity of an unrecorded class I plat approved by the director or the commission for not more than 12 months from the original expiration date upon the written request of the owner of the land subject to the class I plat.

(c) Approval of a development plat shall be valid until the completion of the project for which the development plat was approved.

- (d) An applicant shall submit a request for extension of approval of a class II

plat or a class III plat to the department pursuant to the subdivision plat submittal requirements of section 42-53(a) of this Code to allow the request for extension of time to be considered and acted upon before the expiration date of the subdivision plat. An applicant shall submit a request for extension of approval of a class I plat to the department not later the tenth day before the expiration date of the class 1 plat to allow the request for the extension of time to be considered and acted upon before the expiration date of the class I plat. Neither the commission nor the director shall consider any request for extension of approval after the original expiration date of a subdivision plat.

(e) When a subdivision plat approval expires, the applicant must submit a new subdivision plat and pay all applicable fees.

### **Sec. 42-81. Variances.\***

(a) The commission is authorized to consider and grant variances from the ~~provisions requirements~~ of this chapter, ~~other than those provisions required by state law,~~ 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:

- (1) Either:
  - a. The imposition of the terms, rules, conditions, policies and standards of this chapter would create an undue hardship by depriving the applicant of the reasonable use of the land; or
  - b. Strict application of the requirements of this chapter would make a project infeasible due to the existence of unusual physical characteristics that affect the property in question, or would create an impractical development or one otherwise contrary to sound public policy;
- (2) The circumstances supporting the granting of the variance are not the result of a hardship created or imposed by the applicant;
- (3) The intent and general purposes of this chapter will be preserved and maintained;
- (4) The granting of the variance will not be injurious to the public health, safety or welfare; and
- (5) Economic hardship is not the sole justification for the variance.

In granting a variance, the commission is authorized to impose any condition on the subdivision plat or the development plat for which the variance is requested that the

commission determines is reasonably related to the variance requested and that furthers the intent and purpose of this chapter. The findings of the commission, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the commission meeting at which a variance was granted. The commission shall not consider or grant a variance from the performance standards or definitions of this chapter or from any provision of state law.

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

(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 chapter 212 until after the hearing has been conducted.

(d) Approval of a variance requested for a replat that is subject to the protest provisions of chapter 212 shall be by the affirmative vote of three-fourths of the commission members present, or such other number as may be established by state law.

(e) The commission shall grant a variance from the building line requirement of division 3 of article III of this Code to an applicant who presents a certificate of appropriateness issued pursuant to article VII, chapter 33, of this Code, relating to historic preservation, evidencing approval of a building line other than the setback required by division 3 of article III of this chapter. In addition, the commission shall grant the applicant a variance from one or more requirements of this chapter when the commission determines that the granting of the variance is consistent with a certificate of appropriateness issued pursuant to article VII, chapter 33, of this Code, relating to historic preservation.

(f) The commission shall grant a variance to an owner of property-a lot that is subject to a prevailing-special minimum building line requirement or a special minimum lot size requirement established under the provisions of section 42-163-article III of this Code-chapter upon determining that the owner has established a vested right to the building line or lot size otherwise applicable under article III of this chapter. The commission shall determine that the owner has established a vested right upon the owner's demonstration that:

- (1) The owner, in good faith and in material reliance on the building line or lot size otherwise applicable under article III of this chapter, expended a substantial sum of money prior to the effective date of the establishment of the prevailing-special minimum building line requirement or special minimum lot size requirement for the property-lot pursuant to section 42-163(j) of this Code that cannot be recovered; or

- (2) That the applicant, in good faith and in material reliance on building line or lot size otherwise applicable under article III of this chapter, has irreversibly changed position prior to the effective date of the establishment of a prevailing special minimum building line requirement or special minimum lot size requirement for the property lot pursuant to section 42-163(j) of this Code that will require the expenditure of substantial sums of money in the future.

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

(g) 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 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.

~~(h) The commission shall grant a variance to an owner of property that is subject to a special minimum lot size established under the provisions of section 42-194 of this Code upon determining that the owner has established a vested right to the lot size otherwise applicable under article III of this chapter. The commission shall determine that the owner has established a vested right upon the owner's demonstration that:~~

~~(1) The owner, in good faith and in material reliance on the lot size otherwise applicable under article III of this chapter, expended a substantial sum of money prior to the effective date of the establishment of the special minimum lot size for the property pursuant to section 42-194 of this Code that cannot be recovered; or~~

~~(2) The applicant, in good faith and in material reliance on the lot size~~

~~otherwise applicable under article III of this chapter, has irreversibly changed position prior to the effective date of the establishment of a special minimum lot size for the property pursuant to section 42-194 of this Code that will require the expenditure of substantial sums of money in the future.~~

~~It shall be a rebuttable presumption that the existence of a contract to purchase, or option contract on, property subject to a special minimum lot size established pursuant to section 42-194 of this Code is not the expenditure of a substantial sum of money.~~

### **Sec. 42-82. Special exceptions.**

(a) The commission is authorized to consider and grant special exceptions to the provisions of article III of this chapter other than those specified in subsection (e), by majority vote of those members present and voting, except as required by subsection (d), when the commission finds that each of the following conditions exist:

- (1) Special circumstances exist that are unique to the land or the proposed subdivision or development and that are not generally applicable to all other land, subdivisions or developments in the city or its extraterritorial jurisdiction that justify modification of the standards that otherwise would apply;
- (2) The proposed special exception will achieve a result contemplated by the standards in article III of this chapter;
- (3) The modification of the standard requested is not disproportionate to the requirement of the standard, provided however that the commission shall not be authorized to grant a special exception if the modification of the standard is 33 percent or greater. A modification of a measurable standard by 10 percent or less shall be presumed to be not disproportionate;
- (4) The intent and general purposes of this chapter will be preserved and maintained; and
- (5) The granting of the special exception will not be injurious to the public health, safety or welfare.

If a provision of article III of this chapter requires more specific findings with respect to the consideration and granting of a special exception, the more specific findings shall control. In granting a special exception, the commission is authorized to impose any condition on the subdivision plat or the development plat for which the special exception is requested that the commission determines is reasonably related to the special exception requested and that furthers the intent and purpose of this chapter. The findings of the commission, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the commission



meeting at which a special exception was granted.

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

(c) Solely for the purpose of complying with the notice and hearing requirements of chapter 212 with respect to replats, a special exception shall be deemed a "variance" as that term is used in chapter 212, and all notice and hearing provisions applicable to the granting of a variance pursuant to the preceding section shall apply to the consideration and granting of a special exception. The commission shall not grant or deny any request for a special exception on which a public hearing is deemed required under chapter 212 until after the hearing has been conducted.

(d) Approval of a special exception requested for a replat that is deemed subject to the protest provisions of chapter 212 shall be by the affirmative vote of three-fourths of the commission members present, or such other number as may be established by state law.

(e) The commission shall not grant a special exception to any of the following requirements:

- (1) Lot size requirements;
- (2) Compensating open space requirements;
- (3) Building line requirements; or

(4) Performance standards of this chapter.

~~(4) Criteria for designating an urban area.~~

(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 for a cul-de-sac that intersects with a street that does not form any part of the boundary of the subdivision plat.

**Sec. 42-83. Notification of applications for variance or special exception.**

(a) The director shall give the notice required by subsections 42-81(g) 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 250 feet of the boundary of the general plan, subdivision plat or development plat as well as all lots or tracts that are along or across from a blockface that abuts any street or private roadway extending 500 feet from the plat as measured along the centerline of any street or private roadway that abuts the boundary of the plat as shown on the most ~~recently approved ad valorem tax rolls of the city~~current appraisal district records not less than the seventh day before 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 each neighborhood association registered with defined boundaries with the department in whose area the general plan or plat is located as soon as reasonably possible before the first meeting at which the commission will consider the application.

(b) The applicant shall give the notice required by subsections 42-81(g) and 42-82(f) of this Code by posting at least one sign on the property that is the subject of the general plan or plat before the tenth day 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 shall 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. The sign shall provide the following information:

- (1) The application number of the plat and the fact that a variance or special exception is being requested;

- (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;
- (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.

**Secs. 42-84--42-99. Reserved.**

### **ARTICLE III.**

#### **PLANNING STANDARDS**

##### **DIVISION 1.**

##### **GENERAL**

#### **Sec. 42-100. Applicability.**

The standards established in this article shall apply to all subdivision plats and development plats required by this chapter. Notwithstanding the foregoing, land use regulations adopted by a tax increment reinvestment zone created by the city pursuant to chapter 311 of the Texas Tax Code, and to which the city has delegated the authority to adopt land use regulations, shall govern all property in the tax increment reinvestment zone to the extent of a conflict with these requirements.

#### **Sec. 42-101. Conflict with off-street parking requirements.**

In the event of a conflict between the provisions of this chapter relating to off-street parking and the provisions of article VIII of chapter 26 this Code, the definitions or regulations of article VIII of chapter 26 of this Code shall apply, provided, however, that requirements to provide off-street parking in this chapter that are not mentioned in article VIII of chapter 26 of this Code shall be considered additional requirements to provide off-street parking. Requirements to provide off-street parking contained in this chapter shall not apply in the central business district as that term is defined in article VIII of chapter 26 of this Code.

#### **Sec. 42-101. Urban area designation.**

~~\_\_\_\_\_ (a) \_\_\_\_\_ The city council may designate any area within the city that meets each of the criteria of subsection (c) of this section as an urban area.~~

~~(b) An application for the designation of an urban area shall be filed with the department and shall:~~

~~(1) Be made on an application form provided by the department; and~~

~~(2) Be signed by one or more owners of property within the area proposed for designation.~~

~~(c) An area is eligible for designation as an urban area if:~~

~~(1) The area is bounded by one or more major thoroughfares or other defining physical features, such as railroad tracks or rights-of-way, major overhead power transmission lines contained in fee strips or easements of at least 80 feet in width, bayous, flood control drainageways, parks or schools;~~

~~(2) At least 80 percent of the parcels within the boundaries of the area, exclusive of parcels designated as public parks or open space, are developed with improvements;~~

~~(3) At least 25 percent of the parcels within the boundaries of the area are developed for or deed restricted to single-family residential or multi-family residential use;~~

~~(4) At least 30 percent of the parcels within the area are developed with nonresidential uses;~~

~~(5) Single-family residential development within the boundaries of the area is at an average density of at least five units per acre, exclusive of public street rights-of-way;~~

~~(6) At least 25 percent of the streets within the boundaries of the area do not exceed 1,000 feet between intersections; and~~

~~(7) The area comprises at least one-half of a square mile of land.~~

~~(d) The commission shall receive the recommendation of the director regarding the application and hold a public hearing on the application before recommending to the city council the designation of any urban area pursuant to this section. The director shall give notice of the public hearing before the commission to each owner of property in the proposed urban area as shown on the most recently certified tax roll of the county in which the area proposed for designation is located by letter deposited into the United States postal service, postage paid, no later than 30 days before the date of the public hearing. The director also shall give notice of the public hearing before the commission by posting, no later than 30 days before the date of the public hearing, at least two signs within the boundaries of the proposed urban area at locations selected by the director as reasonably calculated to be seen by~~

~~residents of, and occupants of property within, the proposed urban area. The signs shall be placed so that each sign will be visible, and the writing on the sign will be legible, from at least one public right-of-way. Each sign shall be a minimum of four by eight feet in size, and shall contain at a minimum the following items of information:~~

- ~~——(1)—— That the area is being considered for designation as an urban area;~~
- ~~——(2)—— A general description of the area being considered for designation;~~
- ~~——(3)—— The date of the public hearing on the designation; and~~
- ~~——(4)—— The name and telephone number of a person within the department who can be contacted for additional information.—~~

~~If the director, in his sole discretion, determines that the size, configuration, traffic patterns or other characteristics of the proposed urban area warrant the placement of additional signs, the director shall cause an appropriate number of additional signs to be posted.—~~

~~At the public hearing before the commission, the director shall maintain a register upon which interested persons may place their names and mailing addresses. At the public hearing before the commission, any owner of property within the proposed urban area and any other interested person shall be entitled to make comments, in person or in writing, on the proposed designation.~~

~~——(e)—— After the close of the public hearing, the commission shall recommend to the city council the designation of a proposed urban area that meets the criteria of subsection (c). If the commission, by majority vote of members present, votes to recommend the designation of the proposed urban area, the director shall forward the recommendation to the city council for consideration. If the commission does not vote to recommend the designation of the proposed urban area, the action of the commission with respect to the application is final. If the commission does not recommend designation of an area as an urban area, the department shall not accept an application for designation of the same or substantially the same area for one year following the date of the commission action.~~

~~——(f)—— Upon receipt of the recommendation of the planning commission, the city council shall hold a public hearing on the recommendation. The director shall give notice of the public hearing before the city council by mail to each person on the register established under subsection (d) not less than 30 days prior to the date of the public hearing before the city council. After the close of the public hearing the city council shall consider the recommendation of the commission and, consistent with the criteria of subsection (c), approve or deny the proposed designation. The decision of the city council with respect to a designation shall be final. If the city council does not designate an area proposed as an urban area, the department shall not accept an application for designation of the same or substantially the same area for one year following the date~~

~~of the city council action.~~

**Secs. 42-~~102103~~--42-119. Reserved.**

## **DIVISION 2.**

### **STREETS AND SHARED DRIVEWAYS**

#### **Subdivision A. Streets**

#### **Sec. 42-120. General layout and arrangement of street systems.**

(a) The street system proposed within any subdivision plat or general plan shall comply with the design standards of this section and shall provide:

- (1) A sufficient number of continuous streets to accommodate the traffic generated by the development of the subdivision;
- (2) A system serving properties to be developed for residential purposes that discourages through traffic while maintaining adequate access and traffic movement for convenient circulation within the subdivision and access for fire, police and other emergency services;
- (3) Adequate vehicular access to all properties within the subdivision plat boundaries;
- (4) Connections to adjacent properties to ensure adequate traffic circulation within the general area; and
- (5) The dedication of rights-of-way, including the rights-of-way for major thoroughfares in accordance with the major thoroughfare plan.

(b) One or more alleys may be included within a subdivision plat provided that:

- (1) Each alley will be drained in accordance with the design manual; and
- (2) The alley shall not provide access to any property outside the subdivision plat boundaries unless the alley was part of an earlier subdivision plat.

#### **Sec. 42-121. Dedication of rights-of-way.**

(a) The applicant shall dedicate to the public the right-of-way for any street or alley designated in a subdivision plat as a public right-of-way in accordance with the requirements of this chapter and applicable state law.

(b) When an existing public street with a right-of-way width that does not meet the requirements of section 42-122 of this Code is adjacent to and forms a boundary of a subdivision plat or development plat, the owner of the property within the proposed subdivision or development shall dedicate sufficient additional right-of-way within the proposed subdivision or development adjacent to the existing right-of-way to provide one-half of the total right-of way width necessary to meet the requirements of section 42-122 of this Code. In the case of a subdivision plat, the dedication shall be made by plat. In the case of a development plat, the dedication shall be made by separate instrument. The commission shall waive the requirement to dedicate right-of-way upon finding that the applicant has made a satisfactory showing that the proposed subdivision or development will not contribute to a significant increase in traffic on the street.

(c) When the commission finds that it is necessary for the proper subdivision of land and it is in the public interest to locate a new public street right-of-way centered on a property line, the commission shall approve the dedication of one-half of the land needed for the right-of-way. Any subdivision plat that provides for a partial street dedication pursuant to this subsection shall include a one-foot reserve along the proposed centerline with appropriate notations restricting access from any right-of-way so dedicated to adjacent property until the required additional adjacent right-of-way is dedicated.

**Sec. 42-122. Right-of-way widths.**

The minimum right-of-way required for each of the following types of streets or public alleys shall be as follows, subject only to the street width exception areas established pursuant to section 42-123 of this Code:

Major thoroughfares	(1) The lesser of 100 feet or the right-of-way specified by the street hierarchy classification established by the major thoroughfare and freeway plan; or
	(2) 100 feet for streets designated on the major thoroughfare and freeway plan for which a street hierarchy classification is not established
Collector streets designated on the major thoroughfare and freeway plan	The right-of-way width established by the major thoroughfare and freeway plan
Other collector streets	(1) 60 feet; or

	(2) 50 feet if all properties on both sides of the collector street consist of single-family residential lots that do not have driveway access to the collector street.
Local streets	(1) 50 feet if adjacent to exclusively single-family residential lots; or
	(2) 60 feet if adjacent to any other development
Public alleys	20 feet
Type 1 permanent access easement	The width required if the permanent access easement were a public street
Type 2 permanent access easement	28 feet
The right-of-way width of a type 2 permanent access easement is coterminous with the pavement width and the terms are used interchangeably. The width shall be measured from edge to edge across the surface of the pavement	

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

(a) Except as provided in this section, subdivision plats and development plats for subdivisions and developments within a street width exception area shall not be required to dedicate additional right-of-way for an existing public local street that does not meet the standards of the preceding section.

(b) The following are street width exception areas for which additional widening is not required unless the existing right-of-way is less than 50 feet:

- (1) The central business district;
- (2) The area beginning at the intersection of I.H. 610 (North Loop West) and Yale Street, then south along Yale Street to its intersection with W. 20th Street; thence east along W. 20th Street to its intersection with Oxford Street, thence south along Oxford Street to its intersection with West I.H. 10 Frwy.; thence west along West I.H. 10 Frwy. to its intersection with N. Shepherd Drive; thence north along N. Shepherd Drive to its intersection with the MKT R.R.; thence northwest along the MKT R.R. to its intersection with Washington Avenue; then southeast along Washington Avenue to its intersection with a line projected and extended from E. Memorial Loop Drive; thence westerly, southwesterly and easterly



following the curve of E. Memorial Loop Drive to its intersection with Crestwood Street; thence south along Crestwood Street to its intersection with Memorial Drive; thence east along Memorial Drive to its intersection with Westcott Street; thence south along Westcott Street to its intersection with Buffalo Bayou; thence east along Buffalo Bayou to its intersection with Shepherd Drive; thence south along Shepherd Drive to its intersection with San Felipe Street; thence west along San Felipe Street to its intersection with Kirby Drive; thence south along Kirby Drive to its intersection with W. Holcombe Boulevard; thence east along W. Holcombe Boulevard to its intersection with Main Street; thence south along Main Street to its intersection with Hermann Drive; thence east along Hermann Drive to its intersection with Alameda Road; thence south along Alameda Road to its intersection with N. MacGregor Parkway; thence east along N. MacGregor Parkway to its intersection with the H.B. & T.R.R.; thence northeast along the H.B. & T.R.R. to its intersection with Elgin Street; thence east along Elgin Street to its intersection with Dietz Street; thence north along Dietz Street and in a line projected to its intersection with I.H. 45 Frwy.; thence northwest along I.H. 45 Frwy. to its intersection with West I.H. 610 (North Loop West); thence west along West I.H. 610 to the point of beginning; with the exception of the portions of the following streets within this area:

- a. Bayland from Studewood to Houston Avenue;
- b. Birdsall Street from Maxie to Memorial Drive;
- c. Cleburne from San Jacinto to Jackson;
- d. W. Clay Street from McDuffie to Taft;
- e. Enid Street from IH 610 (North Loop West) to North Main;
- f. Fairview Street from Shepherd to Tuam;
- g. Feagan Street from Westcott to Waugh;
- h. E. 14th Street from Oxford to North Main;
- i. Garrot Street from Hawthorne to Milam;
- j. Gibbs from W. 23rd Street to Link;
- k. Hawthorne from Woodhead to Spur 527;
- l. Hazard Street from Peden to Rice;

- m. Link Street from Airline to IH 45;
- n. Mandell from Fairview to Sunset;
- o. McGowen from W. Gray to Scott;
- p. Michaux Street from E. 23rd Street to Usener;
- q. Patterson Street from IH 10 to Washington;
- r. Sampson Street from Leeland to Holman;
- s. Stanford Street from Allen Parkway to US 59 South;
- t. Taft Street from Allen Parkway to Hawthorne;
- u. Tuam Street from Fairview to Sauer;
- v. E. 23th Street from Rutland to Gibbes;
- w. Usener from Studemont to Sawyer;
- x. Watson Street from Pecore to Usener;
- y. Woodhead from W. Clay to Bissonet; and
- z. The area described in subsection (c) of this section.

(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 Mason Street on the west, the northern right-of-way line of Andrews Street on the northwest, the western right-of-way line of Genessee on the northwest, and the southern right-of-way line of West Dallas Street on the north 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.

(d) The commission is authorized to designate additional areas as street width exception areas as provided in this subsection. An area that has block lengths that are generally 600 feet or less measured centerline to centerline and paved public streets with rights-of-way of not less than 50 feet wide with equivalent levels of vehicular traffic, as determined after a study by the director of public works and engineering, is eligible for designation as a street width exception area. The commission, after a public hearing on the study of the director of public works and engineering, shall designate an eligible area as a street width exception area upon finding that the area has an adequate system of streets in place, the number and spacing of which is sufficient to forego requirements of a right-of-way width of greater than 50 feet. In designating a

street width exception area, the commission shall exclude any street within the area that it determines does not have an adequate right-of-way.

**Sec. 42-124. Right-of-way transition.**

Where a transition from one right-of-way width for any type of street to a different right-of-way width is proposed, the transition shall conform to the geometric design guidelines of the design manual or to other geometric design guidelines that are approved by the director of public works and engineering if in his professional opinion the proposed transition is warranted by the circumstances and achieves the intent and purpose of this section.

**Sec. 42-125. Location and alignment of major thoroughfares.**

(a) The location and alignment of a major thoroughfare shall conform to the major thoroughfare and freeway plan. The commission shall not approve a change in the location or alignment of any major thoroughfare unless the city council first adopts a major thoroughfare and freeway plan incorporating the change. For purposes of this section, an alignment shown on a subdivision plat that occurs completely within the boundaries of the proposed subdivision, that does not change any intersecting points and that does not affect properties outside the proposed subdivision that were shown as adjacent to the major thoroughfare on the major thoroughfare and freeway plan shall not be considered a "change in the location or alignment of a major thoroughfare." Any other proposed location or alignment shall be a "change in the location or alignment of a major thoroughfare."

(b) The location and alignment of a collector street designated on the major thoroughfare and freeway plan shall conform to the major thoroughfare and freeway plan. The commission shall not approve a change in the location or alignment of any collector street designated on the major thoroughfare and freeway plan unless the city council first adopts a major thoroughfare and freeway plan incorporating the change.

**Sec. 42-126. Intersections.**

The design of each intersection shall conform to the geometric design guidelines of the design manual and the standards of this article. All intersection distances shall be measured along the centerline from blockface to blockface.

**Sec. 42-127. Intersections of major thoroughfares.**

(a) A major thoroughfare shall intersect with a public local street, a collector street or another major thoroughfare at least every 2,600 feet.

GRAPHIC UNAVAILABLE: [Click here](#)

(b) Intersections along a major thoroughfare shall be spaced a minimum of

600 feet apart.

GRAPHIC UNAVAILABLE: [Click here](#)

(c) An intersection with a major thoroughfare shall not be within 400 feet of the intersection of two major thoroughfares.

GRAPHIC UNAVAILABLE: [Click here](#)

**Sec. 42-128. Intersections of local streets.**

(a) Each class III plat and each general plan that shows local streets shall provide for internal circulation by meeting either of the following requirements:

- (1) Each local street shall intersect with a street that meets the requirements of subsection (b) at least every 1400 feet; or
- (2) One or more collector streets within the class III plat or general plan shall connect with another collector street or major thoroughfare at a minimum of two points.

GRAPHIC UNAVAILABLE: [Click here](#)

(b) A street that intersects with a local street will satisfy the intersection length requirement of item (a)(1) of this section if the street:

- (1) Is a public street that intersects with two different public streets; and
- (2) Is not a permanent access easement.

(c) Intersections along local streets shall be spaced a minimum of 75 feet apart.

**Sec. 42-129. Intersections of type 2 permanent access easements.**

(a) Intersections along type 2 permanent access easements shall be spaced a minimum of 65 feet apart and shall not intersect at less than an 80 degree angle.

GRAPHIC UNAVAILABLE: [Click here](#)

(b) When a type 2 permanent access easement intersects with another type 2 permanent access easement at a 90-degree angle, the type 2 permanent access easement shall provide a 20-foot radius at the intersection.

GRAPHIC UNAVAILABLE: [Click here](#)

(c) When a type 2 permanent access easement intersects with another type 2 permanent access easement at an angle of between 80 and 90 degrees each acute angle shall have a 25-foot radius at the intersection.

GRAPHIC UNAVAILABLE: Click here

(d) A type 2 permanent access easement may not be a direct straight-line extension of a public street.

GRAPHIC UNAVAILABLE: Click here

**Sec. 42-130. Intersection exceptions.**

(a) Nothing in the intersection standards established by sections 42-127 through 42-129 of this Code shall require:

- (1) The crossing of a single existing pipeline by a street more than every 2,000 feet;
- (2) The crossing of multiple existing pipelines by a street more than once every one-half mile;
- (3) The crossing of an existing railroad track (other than an industrial lead) or an existing major creek or bayou in a drainage easement having a width of 300 feet or more by any street other than a major thoroughfare;
- (4) The crossing of a drainage channel required by a governmental entity with flood control jurisdiction to be located in a recorded drainage easement having a required width of 220 feet or more by a street more than every one-half mile;
- (5) The crossing of an drainage channel required by a governmental entity with flood control jurisdiction to be located in a recorded drainage easement having a required width of less than 220 feet and more than 100 feet by a street more than every 2,000 feet;
- (6) The crossing of a stormwater detention facility required by a governmental entity with flood control jurisdiction by a street more than once every 2,000 feet;
- (7) The crossing by any street other than a major thoroughfare of any portion of Addicks ~~Reservoir~~Reservoir, Barker ~~Reservoir~~Reservoir, Sheldon ~~Reservoir~~Reservoir, the Houston Ship Channel or Lake Houston that is wider than 100 feet; or
- (8) The crossing of any portion of a golf course by a local street more than

once every 2800 feet, provided that the golf course provides 60 feet of frontage at the location where each street intersection would otherwise occur.

(b) Nothing in the intersection requirements established by sections 42-127 through 42-129 of this Code shall require the creation of a street that stubs into:

- (1) Publicly owned airport property;
- (2) Property owned or leased by the United States for use by the National Aeronautics and Space Administration for the Johnson Space Center;
- (3) Any grade-separated freeway that does not have a frontage road;
- (4) Property owned in fee by an electric utility and used or intended for use for electric transmission facilities; or
- (5) Any portion of Addicks Reservoir, Barker Reservoir, Sheldon Reservoir, the Houston Ship Channel or Lake Houston that is wider than 100 feet.

**Sec. 42-131. Culs-de-sac.**

(a) A cul-de-sac shall not serve a single-family residential development that will generate more than 350 vehicle trips a day at the intersection of the cul-de-sac with a through street. A cul-de-sac that exclusively serves a single-family residential development and that has a length of not more than 350 feet from the centerline of its intersection with the nearest street shall have a paving width of at least 24 feet and shall not be used to serve single-family residential development that will generate more than 350 vehicle trips a day at the intersection of the cul-de-sac with a through street. For purposes of the foregoing requirements, each dwelling unit type shall be deemed to generate the following trips per day:

Detached units	10 trips per unit
Attached units	8 trips per unit

(b) A cul-de-sac shall comply with the applicable terminus design as specified in the design manual.

**Sec. 42-132. Curves.**

(a) Curves for the right-of-way of a major thoroughfare shall have a centerline radius of at least 2000 feet. Reverse curves shall be separated by a tangent distance of not less than 100 feet.

(b) Reverse curves with a tangent distance of 100 feet or less along collector streets and local streets shall have a centerline radius of at least 300 feet. Reverse curves shall be separated by a tangent distance of not less than 50 feet.

(c) Curves along a type 2 permanent access easement or a private street may have any centerline radius except that the centerline radius of a reverse curve shall not be less than 65 feet. Reverse curves shall be separated by a tangent of not less than 25 feet.

(d) At the request of an applicant, the commission shall approve a lesser curve radius upon certification by the director of public works and engineering that the lesser radius meets nationally accepted standards set forth in either the "Guidelines for Urban Major Streets Design" of the Institute of Transportation Engineers or "A Policy on Geometric Design of Highways and Streets" of the American Association of State Highway and Transportation Officials.

### **Sec. 42-133. Public street names.**

All public streets contained in any subdivision plat approved by the commission shall be named in conformance with the following policies and procedures:

- (1) The name of a new street that is not an extension of an existing street shall not duplicate the name of any existing street located within the city or the city's extraterritorial jurisdiction.
- (2) The name of a new street that is a direct extension of an existing street shall be the name of the existing street, except in those instances where the existing street name is a duplicate street name.
- (3) Street name prefixes such as "North", "South", "East", and "West" may be used to clarify the general location of the street, provided that these prefixes must be consistent with the existing and established street naming and numbering system of the general area in which the street is located.
- (4) Street name endings shall be used as follows:
  - a. "Court," "Circle" and "Loop" shall be limited to streets that terminate at a cul-de-sac or are configured as a loop street.
  - b. "Boulevard," "Speedway," "Parkway" and "Expressway" shall be limited to major thoroughfares or other streets designed to handle traffic volumes in excess of normal neighborhood traffic generation or that are divided streets with at least two lanes of traffic in each direction separated by a median.
  - c. "Highway" and "Freeway" shall be used only to designate highways or freeways falling under the jurisdiction of the state department of transportation.

- (5) Alphabetical and numerical street names must not be used to name any new street on any subdivision plat except in those instances where the street is a direct extension of an existing street with an alphabetical or numerical name that is not a duplicate street name.

**Sec. 42-134. Private street and permanent access easement names and markers.**

(a) Names proposed to be assigned to private streets or permanent access easements shall conform to the standards of section 42-133 of this Code and shall also be subject to the following criteria:

- (1) The suffix "PRIVATE" or "PVT" shall be a part of all names established for private streets and permanent access easements and shall be an integral part of any street name marker installed. (Example of sign letter: LOG JAM LN. PRIVATE or LOG JAM LN. PVT.)
- (2) The street name markers erected on private streets shall conform to the standards and specifications approved by the director of public works and engineering. In no instance shall the color of the background of a street name marker to be installed on a private street or a permanent access easement be the same as the background color of street name markers used to identify public streets.
- (3) A private street or permanent access easement that is a direct extension of a local public street shall not have the same name as the local public street.

(b) Upon the establishment of the name of any private street or permanent access easement pursuant to this section, the owners of the property adjacent to the private street or permanent access easement shall be responsible for the installation, erection and continued maintenance of appropriate street name markers at the intersections of all streets, including public streets, private streets and permanent access easements. Installation of a private street or permanent access easement name marker shall not be authorized without the approval of the director of public works and engineering and shall conform with the standards of the public works and engineering department for street name markers. The director of public works and engineering may declare as a nuisance or a traffic hazard any private street or permanent access easement name marker indicating a name not established in conformance with this section and installed in the public right-of-way and may remove the marker from the right-of-way without notice upon determining that the marker is misleading, confusing or is located so as to create a traffic hazard.

**Sec. 42-135. Street extension.**

- (a) A public street that terminates at the boundary of a plat previously



approved by the commission without means of a vehicular turnaround shall be extended into the adjacent property at the time the adjacent property is platted unless:

- (1) The existing stub street is a local street and is not designated as a collector or major thoroughfare on the major thoroughfare and freeway plan;
- (2) The existing stub street is not shown as a through street on a current general plan approved by the commission for the subdivision in which the existing street is located or the subdivision that is the subject of the application;
- (3) The existing stub street is only one lot in depth;
- (4) The proposed subdivision will not extend residential development; and
- (5) The extension of the street is not required to meet the intersection spacing requirements of this chapter.

If each of these criteria is met, the stub street is not required to be extended.

(b) The owner of the property adjacent to the end of a stub street that is not extended pursuant to subsection (a) of this section shall:

- (1) Construct a pedestrian gate and ornamental screening fence with a minimum height of six feet along the entire right-of-way line when the adjacent property is a public park, a detention reserve, a flood control easement or fee strip, or other platted open space that pedestrian access to and from may be appropriate; or
- (2) Construct a wood, concrete or masonry opaque screening fence with a minimum height of six feet that extends the width of the right-of-way of the stub street if the adjacent property does not meet the criteria of item (1) of this subsection (b).

GRAPHIC UNAVAILABLE: [Click here](#)

(c) Each application for a plat for property located wholly or partially within the city shall indicate whether any existing stub street will be extended into the proposed subdivision. The director shall notify each district city council member of each proposed plat within the council member's district that proposes to extend a stub street. The director shall give the notice as soon as practicable prior to commission consideration of the plat.

**Secs. 42-136--42-144. Reserved**

**Subdivision B. Shared Driveways**

**Sec. 42-145. General layout and arrangement for all shared driveways.**

(a) A subdivision plat within the city may provide for a lot that takes access from a shared driveway within the same subdivision plat as the lot in accordance with the following requirements:

- (1) A shared driveway shall have a minimum width of 18 feet except as provided in section 42-146 of this Code;
- (2) The total length of the shared driveway shall be 200 feet or less as measured along the centerline of the shared driveway starting from the intersection with the public street, provided however that a shared driveway may be more than 200 feet in length if all lots that take access from the shared driveway have frontage in the amount of the minimum lot width required by section 42-185 of this Code on a public street that is not an alley and that contains a roadway;
- (3) The length of a driveway that connects to a shared driveway shall be 20 feet or less as measured from the edge of the shared driveway;
- (4) Any parking space in a subdivision containing a shared driveway shall provide sufficient space for turning movements as depicted on the drawing of the space requirements for off street parking in the Construction Code;
- (5) A shared driveway containing a reverse curve shall have a centerline radius of 65 feet or more. A reverse curve within a shared driveway shall be separated by a tangent of 25 feet or more; and
- (6) A shared driveway that intersects with a major thoroughfare shall not provide gated vehicular access to the shared driveway unless the gate is set back 25 feet or more from the right-of-way of the major thoroughfare.

(b) A shared driveway shall not intersect with a permanent access easement, a private alley, or connect to, or be the extension of, a shared driveway created by an adjacent subdivision. A shared driveway shall intersect with at least one public street that is not an alley in accordance with the following requirements:

- (1) The shared driveway shall intersect with a public street that has a roadway width 18 feet or more as measured at the narrowest point of the roadway adjacent to the tract;

(2) The shared driveway shall intersect with a public street at a 90-degree angle except as needed to comply with item (3) of this subsection; and

(3) The shared driveway shall be set back at least four feet from the boundary of the subdivision plat measured at the point of intersection with the public street. [DIAGRAM]

(c) Intersections within a shared driveway shall comply with the following requirements:

(1) Intersections shall be spaced a minimum of 65 feet apart measured from the closest edges of the shared driveway and shall not intersect at less than an 80 degree angle; and

(2) A shared driveway with a width of 18 feet or more shall provide for a 10-foot turning radius at every 90-degree angle in the shared driveway and shall provide for a 15-foot turning radius at every angle less than 90 degrees but equal to or greater than 80 degrees in the shared driveway. [DIAGRAM]

(d) A subdivision plat containing a shared driveway shall provide a three-foot wide emergency access easement along each boundary of the subdivision plat that does not abut a public street. No objects or obstructions shall be placed within the emergency access strip except that a fence may be permitted if it provides for pedestrian gate access for emergency services.

(e) Each garage entry door on each lot within a subdivision plat that takes access from a shared driveway shall be parallel to the length of the shared driveway. The garage entry door may be perpendicular to the length of the shared driveway when the shared driveway complies with the following performance standards:

(1) No more than three lots take access from the shared driveway;

(2) The shared driveway does not intersect a major thoroughfare or collector street; and

(3) The shared driveway is less than or equal to 100 feet in length. [DIAGRAM]

**Sec. 42-146. Optional performance standards for reduction in shared driveway width.**

A shared driveway shall have a minimum width of 16 feet if it complies with one of the following performance standards:

- (1) The shared driveway is equal to or less than 100 feet in length and contains no turns except those turns that are part of a “T” turnaround configuration that compiles with the following performance standards:
  - a. The “T” turnaround portion of the shared driveway has a minimum width of 16 feet;
  - b. The length of each branch of the “T” turnaround extends exactly 16 feet from the centerline of the shared driveway;
  - c. Not more than four lots take vehicular access from the “T” turnaround; and
  - d. Each garage entry door is parallel to the shared driveway except for a garage entry door located within the “T” turnaround; or [DIAGRAM]
- (2) The shared driveway is greater than 100 feet in length and complies with the following performance standards:
  - a. Each lot within the subdivision plat has frontage along a public street that is not an alley and takes vehicular access only from the shared driveway; or [DIAGRAM]
  - b. The shared driveway connects to two public streets and has no turns or curves. [DIAGRAM]

**Sec. 42-147. Construction over a shared driveway.**

A building or a portion of a building may be constructed over a shared driveway at each intersection of a shared driveway and a public street that is not an alley. A building constructed over a shared driveway shall:

- (1) Be set back not more than 20 feet from the intersection of the shared driveway and the public street and be not more than 30 feet in length as measured along the centerline of the shared driveway; [DIAGRAM]
- (2) Have an unobstructed overhead clearance of 14 feet or more in height above the shared driveway as measured from the highest point of the paving of the shared driveway under the building to the lowest point of the building above the shared driveway; [DIAGRAM]
- (3) Provide for an automatic sprinkler system in accordance with the requirements of Construction Code and the Fire Code; and

(4) Be constructed to a minimum fire resistance of one hour firewall construction standards in accordance with the Construction Code and the Fire Code.

Secs. ~~42-13642-148~~---42-149. Reserved.

### DIVISION 3.

### BUILDING LINES

#### Subdivision A. General Requirements for Building Lines.

#### Sec. 42-150. Building line requirement.

(a) An improvement that requires a building permit shall not be constructed within the building line requirement established by this ~~article~~chapter. Each subdivision plat and development plat shall show all applicable building lines and the following note:

"Unless otherwise indicated, the building lines [b.l.], whether one or more, shown on this subdivision plat are established to evidence compliance with the applicable provisions of Chapter 42, Code of Ordinances, City of Houston, Texas, in effect at the time this plat was approved, which may be amended from time to time."

(b) The building line requirements established by this chapter are minimum standards. Where deed restrictions provide for a greater building line or setback, the deed restrictions shall control over the provisions of this ~~division~~chapter.

(c) A special minimum building line requirement established pursuant to subdivision B of this division shall control over all other provisions of this chapter relating to building line requirements.

~~(ed)~~ The following chart is a summary of certain ~~of the~~ building line ~~regulations requirements~~ of this ~~division~~chapter and is intended for illustrative purposes only. In case of any conflict between the chart and the text of this ~~division~~chapter, the text shall control.

=

<del>MINIMUM BUILDING LINE REQUIREMENTS</del>		
	<del>URBAN AREA</del>	<del>SUBURBAN AREA</del>
<del>Central Business District</del>	<del>0 feet</del>	<del>NA</del>
<del>Abutting Major Thoroughfare</del>	<del>25 feet</del>	<del>25 feet</del>
<del>Single-family Lot Backing on Major Thoroughfare</del>	<del>10 feet, if meets standards of section 42-153</del>	<del>10 feet, if meets standards of section 42-153</del>

<del>Abutting Major Thoroughfare, Other Than Transit Corridor Street, With Planned ROW of 80' or less</del>		
<del>→General</del>	<del>15 feet, if meets standards of section 42-154</del>	<del>NA</del>
<del>→Retail Commercial Center</del>	<del>5 feet, if meets standards of section 42-155(a) 0 feet, if meets standards of section 42-155(b)</del>	<del>NA NA</del>
<del>Collector and Local Streets</del>		
<del>→Not Single-family Residential</del>	<del>10 feet</del>	<del>10 feet</del>
<del>→Nonresidential Across from Single-family Lots with Platted Building Line Greater than 10'</del>	<del>Lesser of 25 feet or Greatest Building Line on Single-family Lots</del>	<del>Lesser of 25 feet or Greatest Building Line on Single-family Lots</del>
<del>Collector Streets – Single-family Residential</del>	<del>10 feet, Principal Structure 17 feet, Garage or Carport Facing Street 5 feet, if meets standards of section 42-159(c)</del>	<del>25 feet Front 10 feet Side and Back, if adjacent to local street</del>
<del>Local Streets – Single-family Residential</del>	<del>10 feet, Principal Structure 17 feet, Garage or Carport Facing Street</del>	<del>20 feet Front 10 feet Side and Back, if adjacent to local street</del>
<del>Residential</del>	<del>5 feet, if meets standards of section 42-159(c)</del>	<del>10 feet Front 10 feet both sides of corner lot, if meets standards of section 42-158(b) 0 feet, if vehicular access is from public alley (except corner lot)</del>
<del>Private Streets</del>	<del>5 feet for habitable structure</del>	<del>5 feet for habitable structure</del>
<del>Type 2 Permanent Access Easement</del>	<del>5 feet for habitable structure</del>	<del>5 feet for habitable structure</del>
<del>Undefined easement for flammable product pipeline</del>	<del>15 feet from center of pipeline</del>	<del>15 feet from center of pipeline</del>

<u>Summary of Minimum Building Line Requirements</u>		
<u>Type of Street or Private Roadway</u>	<u>Tract Description</u>	<u>Minimum Building Line Requirement</u>
<u>All Public Streets</u>	<u>Within the central business district</u>	<u>No requirement</u>
<u>Major Thoroughfares</u>	<u>In general</u>	<u>25 feet</u>
	<u>Single-family residential backing on a major thoroughfare</u>	<u>10 feet, if the lot meets the standards of section 42-152(b)</u>
	<u>Not single-family residential and abutting a major thoroughfare with a planned right-of-way width of 80 feet or less</u>	<u>15 feet, if the reserve meets the standards of section 42-153</u>
	<u>Retail commercial center abutting a major thoroughfare with a planned right-of-way</u>	<u>5 feet, if the reserve meets the standards of section 42-154(a)</u>

	<u>width of 80 feet or less</u>	<u>zero feet, if the reserve meets the standards of section 42-154(b)</u>
<u>Transit Corridor Streets</u>	<u>All tracts</u>	<u>25 feet</u> <u>Reduced building line if the tract meets the standards of article IV of this chapter</u>
<u>Type A Streets</u>	<u>All tracts</u>	<u>See applicable public street classification</u> <u>Reduced building line if the tract meets the standards of article IV of this chapter</u>
<u>Collector Streets</u>	<u>Not single-family residential and across the street from a single-family residential lot with a platted building line of 10 feet or more</u>	<u>Lesser of 25 feet or the greatest building line on the single-family residential lots</u>
	<u>Single-family residential</u>	<u>25 feet, if the lot meets the standards the standards of section 42-156(a)</u>
		<u>10 feet, if the lot meets the standards of section 42-157(b)</u>
		<u>5 feet, if the lot meets the standards of section 42-157(c)</u>
		<u>zero feet, if the lot meets the standards of section 42-157(d)</u>
<u>All others</u>	<u>10 feet</u>	
<u>Local streets</u>	<u>Not single-family residential and across the street from a single-family residential lot with a platted building line of 10 feet or more</u>	<u>Lesser of 25 feet or the greatest platted building line on the single-family residential</u>
	<u>Single-family residential</u>	<u>20 feet, if the lot meets the standards of section 42-156(b)</u>
		<u>10 feet, if the lot meets the standards of section 42-156(b) or section 42-157(b)</u>
		<u>5 feet, if the lot meets the standards of section 42-157(c)</u>
		<u>zero feet, if the lot meets the standards of section 42-157(d)</u>
<u>All others</u>	<u>10 feet</u>	
<u>Private Streets</u>	<u>All tracts</u>	<u>5 feet for habitable structures</u>
<u>Type 2 Permanent Access Easements</u>	<u>All tracts</u>	<u>5 feet for habitable structures</u>
<u>Shared Driveways</u>	<u>All tracts</u>	<u>3 feet, if the lot meets the standards of section 42-159(a)</u>
		<u>zero feet, if the lot meets the standards of section 42-159(b)</u>

**Sec. 42-151. Exceptions to building line requirement.**

(a) Property A tract within the central business district shall not be subject to a building line requirement.

(b) For a building line requirement of 10 feet or greater established by this article, an encroachment shall be permitted as follows:

(1) An encroachment of up to 30 inches into the building line requirement shall be permitted for eaves, bay windows, balconies, fireplace chimneys and decorative features if the minor encroachment is cantilevered into the building line requirement; and

(2) An encroachment of up to five feet into the building line requirement shall be permitted for open stairways and wheelchair ramps.

(c) Encroachments into the building line requirement along a shared driveway established by this article shall be permitted if the encroachment is:

(1) Cantilevered into the building line requirement; and

(2) 12 feet or more in vertical height as measured from the highest point of the shared driveway paving to the lowest point of the encroachment.

~~(b) The commission, after public hearing, shall exempt other areas within the city from the building line requirement upon determining that the area has:~~

~~(1) Blockfaces of 300 feet or less;~~

~~(2) Public rights-of-way not less than 80 feet wide; and~~

~~(3) Levels of vehicular traffic equivalent to the central business district as determined after a study by the traffic engineer.~~

**Sec. 42-152. Building line requirement along major thoroughfares--General requirement.**

(a) The portion of a lot or tract that is adjacent to a major thoroughfare shall have a building line requirement of 25 feet unless otherwise authorized by this articlechapter.

**~~Sec. 42-153. Lot backing on major thoroughfare.~~**

(b) A building line requirement of ten feet is authorized for that portion of a single-family residential lot that backs onto a major thoroughfare, provided that the subdivision plat contains a notation that:

(1) The area 15 feet behind the building line along the major thoroughfare is restricted to use as a one-story, uninhabited garage; and

(2) Vehicular access cannot be taken from the major thoroughfare.



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### Lot backing

**Sec. 42-154153. Optional performance standards for a major thoroughfare within the city with a planned right-of-way of 80 feet or less--In general.**

Except for along a transit corridor street or type A street, a building line requirement of 15 feet is authorized for ~~parcels a tract in an urban area the city~~ that have has frontage on a major thoroughfare with a planned right-of-way of 80 feet or less if ~~an~~the applicant submits a subdivision plat that includes plat notations that require compliance with the following performance standards or a development plat that demonstrates compliance with each of the following performance standards, ~~if~~as applicable:

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### Right-of-way--80 feet

- (1) The subdivision plat or development plat does not provide for single-family residential lots use adjacent to the major thoroughfare ~~and the development plat does not provide for single-family development adjacent to the major thoroughfare, as applicable;~~
- (2) Any private street or private drive crossing the building line is substantially perpendicular to the adjacent major thoroughfare and the building line;
- (3) The area within the building line is not used for parking, driveways or any other auto-related uses such as access to a drive-in-through window;
- (4) A clearly-defined pedestrian walkway that is separate from any private street or private drive is established across the building line perpendicular to the sidewalk providing a connection from ~~a~~the public sidewalk along the major thoroughfare to an entrance to a building or the development project;
- (5) Provision is made for a sidewalk that is at least five feet wide to be constructed by the applicant within the right-of-way of the major thoroughfare;
- (6) The height of any building within 15 feet behind the building line is restricted to not more than 75 feet, as measured in accordance with the Building Code;

- (7) Trees that are within 25 feet of the property line adjacent to the major thoroughfare are protected as corridor trees pursuant to article V of chapter 33 of this Code;
- (8) The building line conforms to the visibility triangle required by section ~~42-162-161~~ of this Code at the intersection of a major thoroughfare and any other street;
- (9) For any property used for nonresidential purposes, the maximum height of any fence, wall, berm or combination thereof within the building line is 36 inches in height measured from mean grade;
- (10) For multi-family residential uses, any fence, wall, berm or combination thereof within the building line that is more than 36 inches high, but less than eight feet high, measured from mean grade is at least two feet from the property line adjacent to the major thoroughfare and the space created thereby is used and maintained for landscape plantings; and
- (11) For purposes of section 33-127(b) of this Code, the number of required shrubs shall be equal to the number of required street trees multiplied by five, which required shrubs shall be distributed along the street frontage of the property in the landscape strip.

**Sec. ~~42-155~~154. Optional performance standards for a Urban area--mMajor thoroughfares with within the city with a planned right-of-way of 80 feet or less--Retail commercial center.**

(a) Except for ~~a along a~~ transit corridor street, type A street, or as provided in subsection (c), a building line requirement of five feet is authorized for a ~~parcel tract~~ in ~~an urban area the city~~ used for a retail commercial center with frontage on a major thoroughfare with a planned right-of-way of 80 feet or less if an applicant submits a subdivision plat that includes plat notations that require compliance with the following performance standards or a development plat that demonstrates compliance with each of the following performance standards:

- (1) The subdivision plat or development plat incorporates a five-foot area within the building line that the applicant will improve with a sidewalk or landscaping if the sidewalk is provided in the right-of-way;
- (2) All off-street parking is provided to the rear or side of any improvements on the property;
- (3) If any driveway is provided from the major thoroughfare to the side of any improvements on the property, the driveway shall meet one of the following standards:

- a. Not more than one driveway with two bays of parking comprising a maximum of 62 feet in width is placed to the side of any improvements, provided that the combination of parking and driveway does not exceed 1/3 of the total frontage of the retail commercial center; or

GRAPHIC UNAVAILABLE: Click here

62 feet in width

- b. Not more than one two-way driveway of not more than 24 feet in width is provided from the major thoroughfare to parking at the rear of the improvements; or

GRAPHIC UNAVAILABLE: Click here

24 feet two-way drive

- c. Not more than two one-way driveways of 15 feet each is provided from the major thoroughfare to parking at the rear of the improvements;

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Parking--Rear

- (4) If the applicant proposes to locate the sidewalk within the building line, the applicant presents evidence that the director of public works and engineering has waived the requirement for a sidewalk within the right-of-way in exchange for the commitment of the owner of the adjacent property to install and maintain landscaping in a ten-foot strip within the right-of-way adjacent to the property;
- (5) The improvement that will be located along the reduced building line contains 90 percent of the gross floor area of all improvements located on the parcel;
- (6) Trees that are within 25 feet of the property line adjacent to the major thoroughfare are protected as corridor trees pursuant to article V of

chapter 33 of this Code; and

- (7) For purposes of section 33-127(b) of this Code, the number of required shrubs shall be equal to the number of required street trees multiplied by five, which required shrubs shall be distributed along the street frontage of the property in the landscape strip.

(b) ~~Except for along a transit corridor street, type A street, or as provided in subsection (c). Except as provided in subsection (e),~~ a building line requirement of zero feet is authorized for a ~~parcel tract in an urban area the city~~ used for a retail commercial center with frontage on a major thoroughfare with a planned right-of-way of 80 feet or less if an applicant submits a subdivision plat that includes plat notations that require compliance with the following performance standards or a development plat that demonstrates compliance with each of the following performance standards:

- (1) The subdivision plat or development plat provides for an arcade or colonnade at least six feet wide along the full face of the retail commercial center parallel to the major thoroughfare;
- (2) All off-street parking is to the rear or side of any improvements on the property;
- (3) Any driveway from the major thoroughfare to the side of any improvements on the property shall meet one of the following standards:
  - a. Not more than one driveway with two bays of parking comprising a maximum of 62 feet in width is placed to the side of any improvements, provided that the combination of parking and driveway does not exceed 1/3 of the total frontage of the retail commercial center;

GRAPHIC UNAVAILABLE: Click here

26 feet width

- b. Not more than one two-way driveway of not more than 24 feet in width is provided from the major thoroughfare to parking at the rear of the improvements; or

GRAPHIC UNAVAILABLE: Click here

Parking at rear--24 feet

- c. Not more than two one-way driveways of 15 feet each is provided from the major thoroughfare to parking at the rear of the improvements;

GRAPHIC UNAVAILABLE: Click here

Parking at rear--15 feet

- (4) The applicant presents evidence that the director of public works and engineering has waived the requirement for a sidewalk within the right-of-way in exchange for the commitment of the owner of the adjacent property to install and maintain landscaping in a ten foot strip within the right-of-way adjacent to the property. The plantings in the ten-foot landscaping strip shall comply with the requirements of article V of chapter 33 of this Code;
- (5) The improvement that will be located along the reduced building line contains 90 percent of the gross floor area of all improvements located on the parcel; and

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Reduced building line

- (6) Trees that are within 25 feet of the property line adjacent to the major thoroughfare are protected as corridor trees pursuant to article V of chapter 33 of this Code.

(c) Subsections (a) and (b) do not apply to any retail commercial center that is located on a ~~parcel-tract~~ that has been created from a larger parcel or reserve, either by subdivision or lease agreement, if the remaining portion of the original ~~parcel-tract~~ or reserve is used for nonresidential purposes.

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Retail commercial center

**Sec. 42-156155. Streets other than major thoroughfaresCollector and local streets--Uses other than single-family residential.**

(a) The building line requirement for ~~property a tract~~ used or to be used for other than single-family residential purposes adjacent to a street that is ~~not a major thoroughfare collector street or local street that is not an alley~~ shall be ten feet unless otherwise required or authorized by this ~~article~~chapter.

(b) The building line requirement for property used or intended for to be used for other than single-family residential ~~nonresidential~~ purposes adjacent to a street that is ~~not a major thoroughfare collector street or local street and that is not an alley~~ and across which street are located single-family residential lots having platted building lines greater than ten feet shall be the lesser of 25 feet or the greatest building line on the single-family residential lots directly across the street from the property.

**~~Sec. 42-157-156. Collector and local streets--Single-family residential. Collector streets--Suburban.~~**

~~(a) Except as otherwise required or authorized by this chapter, The~~the building line requirement for ~~property a lot in a suburban area~~ restricted to ~~detached~~ single-family residential use shall be 25 feet along the front of a lot and ten feet along the back and sides of a lot adjacent to a collector street that is not an alley. ~~unless otherwise required or authorized in this article.~~

~~(b) Except as otherwise required or authorized by this chapter, the building line requirement for a lot restricted to single-family residential use along a local street that is not an alley shall be:~~

**~~Sec. 42-158. Local streets--Suburban.~~**

~~(a1) The building line requirement for property in a suburban area restricted to single-family residential use shall be 20 feet along the front of a lot and ten feet along the back and side of a lot adjacent to a local street, unless otherwise authorized by this article.~~

~~(b) A front building line requirement; or~~

~~of (2) ten~~10 feet for property otherwise subject to the requirements of subsection (a), and a building line requirement of ten feet on both sides of a corner lot adjacent to a street, ~~are authorized for a subdivision where if the face of the subdivision plat contains a typical lot layout and and the subdivision plat contains plat notations that reflect the requirements of this section.~~ notes that restrict the placement of

~~(c) Notwithstanding the other provisions of this section, the building line requirement for a lot restricted to single-family residential use shall be 20 feet anyfor a garage or carport facing the street, to no closer to the property line adjacent to the street than 20 feet except as provided in subsection (b) of section 42-157 of this Code.~~

GRAPHIC UNAVAILABLE: Click here

Front building line

(ed) When the plat contains a typical lot layout and notes that restrict vehicular access to an approved public alley, then no front building setback line shall be required, except for corner lots as provided herein.

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Lot layout

**Sec. 42-159157. Optional performance standards for Collector collector streets and local streets--Urban-area Single-family residential.**

(a) The performance standards for building lines in ~~an urban area~~the city are intended to:

- (1) Foster a design framework applicable to ~~urban area~~the city that differ in character from each other and from suburban areas; and
- (2) Assure that pedestrian use of sidewalks is not impeded by vehicles blocking the sidewalks.

(b) The building line requirement for a subdivision or development in ~~an urban area~~the city, restricted to single-family residential use adjacent to a collector street or a local street that is not an alley shall be:

- (1) Ten feet for the principal structure; and
- (3) (2) Notwithstanding the other provisions of this section, 17 feet for a garage or carport facing the street~~Seventeen feet for any carport or garage facing the collector street or local street~~  
~~unless otherwise required or authorized by this article.~~ A building above the garage or carport may overhang the building line up to seven feet.

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Facing collector street

(c) A front building line requirement of five feet is authorized for all or a portion of the lots in a subdivision or development in ~~an urban area~~ the city that is restricted to single-family residential use adjacent to a collector street or a local street that meets one of the following performance standards:

(1) Vehicular access to a driveway, garage or carport is available only from the rear of each lot through an alley or shared driveway, and each dwelling unit on a lot that is adjacent to a public street has a front door that faces the public street and provides pedestrian access to the public street;

(2) The subdivision or development includes a separate common parking facility containing an adequate number of parking spaces; or

(3) Vehicular access to each lot is provided by a shared driveway and:

a. The shared driveway meets the requirements of division 2 of article III of this chapter relating to shared driveways;

b. Each dwelling unit on a lot that is adjacent to a public street has front door that faces the public street and provides pedestrian access to the public street; and

c. The subdivision plat contains a plat notation that a fence or wall is required at least two feet from the property line along the street and that the area between the fence or wall and the street shall be planted, landscaped and maintained.

~~and the subdivision meets each of the following standards:~~

~~a. The shared driveway intersects only with one or more public streets and is designed as a one-way loop that is a minimum of 12 feet wide or as a two-way shared driveway that is a minimum of 16 feet wide;~~

~~b. The garage portion of each single-family residential unit is set back from the edge of the shared driveway at least four feet;~~

~~c. The garage entry door is perpendicular to the public street; and~~

~~d. The plat contains a note that restricts the locations of any fence or wall up to eight feet high to at least two feet from the property line along the collector street or local street, which two-foot area shall be planted and maintained with landscaping.~~

(d) ~~A front building line requirement of zero feet adjacent to a collector street or a local street is authorized for a subdivision restricted to single-family residential use~~



in an urban area and that meets the following standards: A front building line requirement of zero feet is authorized for all or a portion of the lots in a subdivision plat in the city that is restricted to single-family residential use adjacent to a collector street or local street that meets the following performance standards:

- (1) The subdivision is solely a replat of a lot on a corner at the intersection of two public streets; ~~and~~
- (2) Each lot in the replat provides for one or more shared driveways so that every dwelling unit will share a shared driveway with at least one other dwelling unit; and
- (3) Each dwelling unit on a lot that is adjacent to a public street has a front door that faces the public street and provides pedestrian access to the public street.

**Sec. 42-~~160~~158. Private streets; type 2 permanent access easement.**

The building line requirement for habitable structures along the right-of-way of a private street or type 2 permanent access easement shall be five feet.

**Sec. 42-159. Building line requirement along a shared driveway.**

(a) A shared driveway that is 18 feet or greater in width shall have a building line of three feet along each side of the shared driveway.

(b) A shared driveway that is less than 18 feet in width shall have a building line of four feet for a garage or carport along each side of the shared driveway.

**Sec. 42-~~161~~160. Pipelines.**

(a) The building line requirement for property adjacent to an undefined easement for a pipeline that carries flammable material under pressure through or over properties within a subdivision or development shall be 15 feet from the centerline of the pipeline.

(b) A subdivision plat may contain a notation that the building line established pursuant to this section will no longer be applicable upon the abandonment or termination of the respective easement or right-of-way.

**Sec. 42-~~162~~161. Visibility triangles.**

The building line for property adjacent to two intersecting streets shall not encroach into any visibility triangle, the triangular area adjacent to the intersection of

any street established by measuring a distance of 15 feet from the point of intersection of two streets along the right-of-way of each of the intersecting streets and connecting the ends of each measured distance, to assure adequate visibility sight lines for vehicular traffic approaching the intersection.

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**~~Sec. 42-163. Preservation of building lines.~~**

~~———— (a) ——— To preserve the building line character of existing blockfaces in residential neighborhoods in urban areas that do not have building lines established by deed restrictions, the building line requirement may be established pursuant to this section through the creation of a special building line requirement area, and a special building line requirement so created will prevail over any more lenient building line requirement established by this article. A blockface qualifies for establishment of a special building line requirement pursuant to this section unless all lots on the blockface are subject to a deed restriction establishing a uniform front building line for the blockface.~~

~~———— (b) ——— The establishment of a special building line requirement area shall be initiated by application to the director in the form prescribed by the department. The application shall include the following:~~

~~———— (1) ——— The proposed boundaries of the special building line requirement area, which shall be no less than one blockface, nor more than two opposing blockfaces;~~

~~———— (2) ——— A map or sketch showing the address and land use for all lots within the proposed special building line requirement area;~~

~~———— (3) ——— Data for each lot within the proposed special building line requirement area showing the distance from the front property line to each building on the lot;~~

~~———— (4) ——— A petition signed by at least one owner of property proposed to be included within the special building line requirement area; and~~

~~———— (5) ——— Evidence of support from the owners of property within the proposed special building line requirement area.~~

~~———— (c) ——— The director shall initially review each application for the creation of a special building line requirement area to determine whether it is complete and shall indicate the date on which the application was determined to be complete. The director shall return an incomplete application with an explanation of the deficiencies. Within ten days after determining that an application for the creation of a special building line requirement area is complete, the director shall give notice of the application for the creation of a special building line requirement to the owners of property within the~~

~~proposed special building line requirement area as shown on the most recent tax rolls for the county in which the proposed area is located. Notice shall be given by letter deposited into the United States postal service, postage paid. Notice shall also be given by signs placed in at least two locations within the proposed special building line requirement area. The signs shall conform to the specifications prescribed by the director and shall be posted by the applicant.~~

~~—(d)— A property owner within the proposed special building line requirement area may protest the application for special building line requirement area by filing a protest with the department within 30 days of the date of the notice letter.~~

~~—(e)— The director shall determine the special building line requirement for each proposed special building line requirement area. The special building line requirement shall be the constructed building line farthest from the street that the constructed building line of at least 70 percent of the structures in the area is the same as or farther from the street than. If the proposed special building line requirement area is included within an historic district designated pursuant to article VII of chapter 33 of this Code, the special building line requirement shall be the constructed building line farthest from the street that the constructed building line of at least 60 percent of the structures in the area is the same as or farther from the street than. The constructed building line shall be measured from the property line to the closest point of the building nearest to the property line. The director shall approve the application for establishment of a special building line requirement area upon determining that each of the following conditions exist:~~

~~—(1)— The application satisfies each of the criteria of subsection (g);~~

~~—(2)— The petition was signed by the owners of 51 percent or more of the area proposed to be included within the special building line requirement area; and~~

~~—(3)— A timely protest of the establishment of the special building line requirement area was not filed by any property owner within the proposed special building line requirement area.~~

~~Upon approval of an application, the director shall take the appropriate steps to refer the application to the city council.~~

~~—(f)— The director shall promptly refer an application to the commission if he cannot approve the application pursuant to subsection (e) of this section. Within 30 days after the director refers the application for the creation of a special building line requirement area, the commission shall conduct a public hearing on the application at a regularly scheduled meeting of the commission. The director shall give notice of the public hearing to each owner of real property within the proposed special building line requirement area by letter deposited into the United States postal service, postage paid, no later than 15 days before the date of the public hearing. The owners of property~~

~~within the proposed special building line requirement area and any other person may present comments in person or in writing at the public hearing.~~

~~(g) After the close of the public hearing, the commission shall consider whether to recommend that the city council establish the special building line requirement area. The commission shall recommend the establishment of a proposed special building line requirement area if it finds that the application satisfies each of the following criteria:~~

- ~~(1) The boundaries of the proposed special building line requirement area will include all properties within at least one blockface and no more than two opposing blockfaces;~~
- ~~(2) More than 60 percent of the area to be included within the proposed special building line requirement area, exclusive of land used for a park, library, place of religious assembly or a public or private elementary, middle, junior high or high school, is developed with single-family residential units;~~
- ~~(3) That the applicant has demonstrated sufficient support for the establishment of the proposed special building line requirement area to warrant the establishment of the area;~~
- ~~(4) That the establishment of the proposed special building line requirement area will further the goal of preserving the building line character of the area; and~~
- ~~(5) That the proposed special building line requirement area has a building line character that can be preserved by the establishment of a minimum building line, taking into account the age of the neighborhood, the age and architectural features of structures in the neighborhood, existing evidence of a common plan and scheme of development, and such other factors that the director, commission or city council, respectively as appropriate, may determine relevant to the area.~~

~~The commission shall not recommend the establishment of a proposed special building line requirement area if it finds that the application does not satisfy each of the above criteria. The director shall forward to the city council each commission recommendation for the establishment of a special building line requirement area. If the commission does not recommend the establishment of a special building line requirement area, the decision of the commission shall be final.~~

~~(h) In determining whether to establish the proposed special building line requirement area, the city council shall consider the recommendations of the director or the commission, as applicable and the criteria in subsection (g). The city council shall~~

~~establish each proposed special building line requirement area by ordinance, which shall specify the building line requirement for the area. The director shall file for recordation in the real property records of the county or counties in which the special building line requirement area is located the ordinance designating the special building line requirement area.~~

~~(i) The special building line requirement area shall terminate 20 years after the effective date of the ordinance establishing the area, unless earlier terminated by an ordinance adopted by the city council.~~

~~(j) The following rules shall govern the issuance of building permits and the approval of subdivision plats and development plats before and after an application for establishment of a special building line requirement area is filed with the department.~~

~~(1) If a complete, valid building permit, subdivision plat or development plat application is filed before the time an application for the establishment of a special building line requirement area is filed with the department, the application shall not be subject to the special building line requirement;~~

~~(2) If a complete, valid building permit, subdivision plat or development plat application is filed after the time an application for the establishment of a special building line requirement area is filed with the department, the application will be subject to the special building line requirement unless:~~

~~a. The director determines that the application for the establishment of a special building line requirement area is not complete; or~~

~~b. The director determines that the proposed special building line requirement area does not have a constructed building line that meets the requirements of section 42-163(e) of this Code or the application does not meet the requirements of section 42-163(g) of this Code.~~

~~(3) If a complete, valid building permit, subdivision plat or development plat application is filed after the time a complete application for the establishment of a special building line requirement area is filed with the department, the building permit, subdivision plat or development plat shall not be approved pending completion of action on the application unless it meets the building line determined by the director pursuant to section 42-163(e) of this Code.~~

~~Notwithstanding the provisions of items (2) and (3) of this subsection, if the city council has not completed action on the special building line requirement area application 180 days after the filing of a complete, valid building permit, subdivision plat or development plat application, the building permit, subdivision plat or development plat application shall not be subject to the special building~~

~~line requirement.~~

**Sec. 42-164162. Reconstruction after casualty.**

(a) Reconstruction of a building after fire, damage or other casualty not intentionally caused by the owner of the building or the owner's agent shall comply with the requirements of this division if the estimated cost to rebuild the damaged portion of the building exceeds 75 percent of the estimated replacement cost of the entire building, exclusive of the replacement cost of the building foundation.

(b) Reconstruction of a building after fire, damage or other casualty not intentionally caused by the owner of the building or the owner's agent shall not require compliance with the provisions of this division if:

- (1) The estimated cost to rebuild is 75 percent or less of the estimated replacement cost of the entire building, after subtracting the estimated replacement cost of the building foundation; and
- (2) The reconstruction would not result in an increase in the floor area of the building or a change in the use of the property.

(c) For purposes of this section, the determination of the estimated cost to rebuild and the estimated replacement cost of a building shall be based on a certified cost estimate provided by an architect or contractor and approved by the building official.

**Sec. 42-165163. Stub street.**

The building line adjacent to the end of a stub street that is not required to be extended pursuant to subsection (a) of section 42-135 of this Code shall be ten feet from the end of the stub street and ten feet on either side of a ten foot projection of the stub street into the adjacent property.

GRAPHIC UNAVAILABLE: [Click here](#)

**Secs. 42-164--42-169. Reserved.**

***Subdivision B. Special Minimum Building Line Requirements.***

**Sec. 42-170. In general.**

(a) The city council may designate a special minimum building line block within the city to preserve the building line character of a single-family residential neighborhood that does not have a minimum building line requirement established by deed restrictions. A minimum building line requirement established pursuant to this

subdivision shall prevail over any lesser minimum building line established by this article. The department shall maintain a list of current special minimum building line blocks on its website.

(b) An area is eligible for designation of a special minimum building line block if it:

(1) Contains not less than one blockface and no more than two opposing blockfaces;

(2) Contains every lot on each blockface within the proposed area;

(3) Forms a contiguous area;

(4) Contains lots, at least 60 percent of which are developed for or restricted to single-family residential use, exclusive of land used for a park, library, place of religious assembly or an elementary, junior high, or high school; and

(5) Contains at least one lot that does not have a building line established by deed restrictions.

#### **Sec. 42-171. Application.**

(a) An application for designation of a special minimum building line block shall be filed with the department by an applicant who shall be the primary contact person regarding the application. The applicant shall be an owner of a lot within the proposed special minimum building line block or a representative of a home owner's association, civic association, or other entity representing the interests of individual owners of lots within the proposed area. The application shall be in the form prescribed by the director and shall:

(1) Be signed by the owner of a lot within the proposed special minimum building line block. The signature of one owner of a lot shall be presumed to represent the consent of all owners of a lot with more than one owner;

(2) Include evidence of support from the owners of lots within the proposed special minimum building line block;

(3) Include an inventory of the lots in the proposed special minimum building line block identifying the address, land use at the time of the filing of the application, the building line of existing buildings on each lot, and which lots, if any, have a building line established by deed restrictions;

- (4) Include a survey of at least one lot on each blockface within the proposed special minimum building line block that includes the location and dimensions of all buildings on the lot; and
- (5) Include a map depicting boundaries of the proposed special minimum building line block that demonstrates compliance with the eligibility requirements of subsection (b) of section 42-170 of this Code.

(b) Prior to the filing of an application with the department, the applicant shall meet with the director. The director shall conduct a preliminary review of the application during the pre-submittal meeting and advise the applicant of any deficiencies that would cause the application to be considered incomplete.

#### **Sec. 42-172. Application review.**

(a) The director shall review each application for completeness and shall determine the effective building line requirement pursuant to section 42-173 of this Code. If an application satisfies the requirements of section 42-171 of this Code, the director shall consider the application to be complete.

(b) If an application does not satisfy the requirements of section 42-171 of this Code, the director shall consider the application incomplete, return the application to the applicant, and advise the applicant of the specific deficiencies within the application.

(c) If an application with two blockfaces does not meet the eligibility requirements of subsection (b) of section 42-170 of this Code, the director may modify the boundaries of the proposed special minimum building line block by removing a blockface so that the boundaries as amended satisfy the requirements, after which the director shall consider the application to be complete.

(d) The director shall, within 15 days of receipt of a complete application, give notice by first class mail to the owners of lots within the proposed special minimum building line block as shown on the current appraisal district records. The notice shall inform the owners of lots of the application and the procedure for review and consideration of the application. The notice shall also inform the owners of lots of their prerogative to file a written protest of the application with the department within 30 days of the date of the notice.

(e) The director shall give notice by electronic mail to each district city council member in whose district any lot within the proposed special minimum building line block is located.

(f) The applicant shall place two signs on each blockface within the proposed area that shall conform to the specifications prescribed by the director. The director



shall approve an alternative to the number and location of signs required by this subsection upon determining that the alternative will provide sufficient visibility of the signs and accomplish the objectives of this section without unduly burdening the applicant. The applicant shall use reasonable efforts to maintain each required sign on each blockface until either the director refers an approved application to city council or the commission takes final action on an application.

(g) For an application signed by the owners of 51 percent or more of the land within the proposed special minimum building line block, if no timely written protest by an owner of a lot within the proposed special minimum building line block is received by the department, the director shall approve the application and refer the application directly to city council for consideration.

(h) If the director is not able to approve the application, the director shall refer the application to the commission for review and consideration pursuant to section 42-175 of this Code.

#### **Sec. 42-173. Determination of special minimum building line requirement.**

(a) The minimum building line requirement shall be the smallest constructed building line of the 70 percent of the buildings in the proposed area farthest from the public street. If the proposed area is within an historic district designated pursuant to article VII of chapter 33 of this Code, the minimum building line requirement shall be the smallest constructed building line of the 60 percent of the structures in the proposed area farthest from the public street.

(b) The constructed building line shall be measured from the property line adjacent to the blockface to the nearest point of the building footprint excluding uninhabitable porches.

#### **Sec. 42-174. Notice of a public hearing before the commission.**

(a) The director shall give notice by first class mail of the date, time, and location of the public hearing on the application before the commission to the owners of a lot within the proposed area as shown on the current appraisal district records not later than 15 days before the date of the public hearing.

(b) The director shall give notice of the public hearing by electronic mail to each district city council member in whose district any portion of the proposed area is located.

#### **Sec. 42-175. Commission review and consideration.**

(a) The commission shall consider each complete application referred by the director and shall hold a public hearing on the application. After the close of the public

hearing, the commission shall consider the application and recommend designation of a proposed special minimum building line block that meets the following standards:

- (1) The proposed area has an identifiable building line character, taking into account the age of the neighborhood, the age of structures in the neighborhood, existing evidence of a common plan and scheme of development, and other relevant factors;
- (2) The establishment of the proposed special minimum building line requirement will further the goal of preserving the building line character of the proposed special minimum building line block;
- (3) The applicant has demonstrated sufficient support for the application to warrant the designation of the special minimum building line block; and
- (4) The application complies with the application requirements of section 42-171 of this Code and the eligibility requirements of section 42-170 of this Code.

(b) If the commission is unable to recommend designation of the special minimum building line block, the commission shall:

- (1) Defer the application to a later commission date;
- (2) Deny the application; or
- (3) Modify the boundaries of the proposed special minimum building line block for an application with two blockfaces by removing a blockface if the modification will result in boundaries of a special minimum building line block that the commission finds will satisfy the criteria of subsection (a) of this section.

**Sec. 42-176. City council review and consideration.**

(a) The director shall submit an affirmative recommendation of the commission to designate the proposed special minimum building line block to city council, which shall decide whether to designate the special minimum building line block based on the criteria of subsection (a) of section 42-175 of this Code.

(b) After designation by city council, the director shall file for recordation in the real property records of the county or counties in which the designated special minimum building line block is located, a notice of the city council action for each lot within the designated special minimum building line block.

**Sec. 42-177. Ineligibility for inclusion after denial.**

(a) If the commission votes not to recommend the application or the city council votes to deny the application, any lot included in the boundaries of the application at its final consideration is ineligible for inclusion in a new application for a period of one year from the date of the final action.

(b) The director may allow an ineligible lot to be included in a new application upon receipt of new information not known to the applicant at the time of the prior application regarding changed circumstances that the director determines warrants the inclusion of the lot in a new application.

**Sec. 42-178. Term and expiration.**

A special minimum building line block shall terminate 20 years after the effective date of the ordinance establishing the block, unless earlier terminated by an ordinance adopted by the city council.

**Sec. 42-179. Rules governing subdivision plats, development plats, and building permits.**

(a) A complete, valid, subdivision plat, development plat, or building permit application filed with the department shall be subject to the special minimum building line requirement only if it is filed after the date an application for a special minimum building line block is determined to be complete by the director.

(b) A subdivision plat, development plat, or building permit that is filed with the department shall not be approved if it provides for a building line that is less than the special minimum building line requirement established by the director pursuant to section 42-173 of this Code.

(c) Notwithstanding the provisions of this section, if the city council has not completed action on the special minimum building line block application 180 days after the date the application is determined by the director to be complete, a subdivision plat, development plat, or building permit application shall not be subject to the special minimum building line requirement.

**Secs. 42-166--42-179. Reserved.**

DIVISION 4.

LOTS AND RESERVES

*Subdivision A. General Requirements for Lots and Reserves.*

**Sec. 42-180. General lot design standards.**

(a) Each lot in a subdivision plat shall be of sufficient size and shape to:

- (1) Allow for the construction of a single-family residential building that ~~can~~ meets the requirements of ~~city codes and ordinances~~ this Code, the Construction Code, and the design manual;
- (2) Accommodate an easement for all public and private utilities necessary to serve the single-family residential building constructed thereon;
- (3) Ensure that direct vehicular access is provided from a street, shared driveway, or alley; and
- ~~(4) \_\_\_\_\_~~ (4) Provide for the number of parking spaces required by section 42-186 and article VIII of chapter 26 of this Code, as applicable. Ensure that two vehicles per dwelling unit can be parked entirely on the lot in compliance with chapter 26 of this Code. The size and dimensions of a parking space shall be in conformance with the requirements of the Construction Code.

**~~Sec. 42-181. Lots without wastewater collection service.~~**

~~(b) \_\_\_\_\_~~ A ~~Lots~~ lot that will not be served by a wastewater collection system shall meet the minimum requirements of the Texas ~~Natural Resource Conservation Commission~~ on Environmental Quality. The applicant shall provide a letter from the Texas ~~Natural Resource Conservation Commission~~ on Environmental Quality evidencing compliance with the minimum requirements. In addition, ~~lots a lot~~ without wastewater collection service that ~~are~~ is platted in a special flood hazard area, as determined under the National Flood Insurance Program, shall meet the applicable requirements of the Texas ~~Natural Resource Conservation Commission~~ on Environmental Quality, the city and the county engineer of the county in which the lots ~~are~~ is located with respect to the location of the onsite sewage system.

**~~Sec. 42-182. Lot sizes--Single-family residential--Suburban area.~~**

~~The minimum lot size for a single-family residential lot in a suburban area shall be:~~

- ~~(1) 5,000 square feet for lots with wastewater collection service;~~
- ~~(2) Less than 5,000 square feet for lots with wastewater collection service, but in no event less than 1,400 square feet, if the subdivision plat meets the standards of sections 42-184 and 42-185 of this Code; or~~
- ~~(3) The minimum requirement of section 42-181 of this Code for lots without wastewater collection service.~~

**~~Sec. 42-183~~181. ~~Lot sizes--Single-family residential--Urban area.~~ Single-family**

residential lot size.

(a) The minimum lot size for a single-family residential lot with wastewater collection service in an urban area shall be:

(1) :

~~(1) 3,500~~ 5,000 square feet for a lots with wastewater collection service within the extraterritorial jurisdiction; or

(2) 3,500 square feet for a lot within the city.

~~(2) Less than 3,500 square feet for lots with wastewater collection service, but in no event less than 1,400 square feet, if the subdivision plat meets the standards of:~~

~~a. Subsection (b); or~~

~~b. Sections 42-184 and 42-185 of this Code;~~

(b) The lot size for a single-family residential lot with wastewater collection service may be less than the minimum lot size provided by subsection (a) if the subdivision plat meets the performance standards of either:

(1) The compensating open space performance standards of section 42-182 of this Code; or

(2) For a subdivision plat within the city, the performance standards of section 42-184 of this Code.

(c) A subdivision plat shall not include a lot that is less than 1,400 square feet unless the plat meets the following performance standards:

(1) The property to be platted is located within the city;

(2) The average lot size within the subdivision plat is greater than or equal to 1,400 square feet. A lot that is larger than 3,500 square feet shall be counted as 3,500 square feet for purposes of the average lot size calculation of this subsection;

(3) If the subdivision plat contains one or more blockfaces in their entirety, the average lot size of each blockface within the subdivision plat is greater than or equal to 1,400 square feet; and

(4) If a subdivision plat includes a lot with a lot size less than 3,500 square feet, any subsequent replat of a lot within the subdivision plat shall maintain an average lot size that is greater than or equal to 1,400 square

feet. The average lot size for each subsequent replat shall be based on all lots within the original subdivision plat containing a lot with a lot size less than 3,500 feet. The subdivision plat and all subsequent replats of lots within the subdivision plat shall contain a plat notation stating the requirements of this item.

~~(3d) The minimum lot size requirement of section 42-181 of this Code for lots without wastewater collection service shall be in accordance with the requirements of subsection (b) of section 42-180 of this Code; or~~

~~(4e) A special The minimum lot size requirement established pursuant to subdivision B section 42-194 of this Code, which division shall control over all other provisions of this section.~~

~~(b) A subdivision in an urban area may provide for a single-family lot size of less than 3,500 square feet, but not less than 1,400 square feet, if the subdivision plat meets the following development standards:~~

~~(1) For a subdivision that is not the replat of a lot on a corner at the intersection of two public streets:~~

~~a. Buildings do not cover more than 60% of the area of each lot that is less than 3,500 square feet in size;~~

~~b. The subdivision plat provides for permeable area in an amount equal to 150 square feet per lot;~~

~~c. The number of single-family residential dwelling units that can be constructed within the proposed subdivision does not exceed an equivalent density of 27 units to the gross acre of all land within the boundaries of the subdivision plat; and~~

~~d. All lots have adequate wastewater collection service; or~~

~~(2) For a subdivision that is solely a replat of a lot on a corner at the intersection of two public streets:~~

~~a. Buildings do not cover more than 75% of the area of each lot that is less than 3,500 square feet in size, on average of the lots in the subdivision;~~

~~b. The subdivision plat provides for permeable area in an amount equal to 150 square feet per lot;~~

~~c. The number of single-family residential dwelling units that can be constructed within the proposed subdivision does not exceed an~~

~~equivalent density of 27 units to the gross acre of all land within the boundaries of the subdivision plat;~~

~~d. All lots in the subdivision have adequate wastewater collection service.~~

**Sec. 42-~~184~~182. Optional performance standards for the reduction in lot size--Reduction in lot size; Compensating open space.**

A subdivision plat may contain a lot of less than minimum lot size required by subsection (a) of section 42-181 of this Code if Lot sizes less than the otherwise applicable minimum prescribed in sections 42-182 and 42-183 of this Code are permitted in subdivisions where compensating open space is provided within the boundaries of the subdivision plat in accordance with the following schedule and in conformance with the design standards of section 42-~~185-183~~ of this Code:

Average lot size may be reduced to this square footage	Upon providing this amount of compensating open space per lot	
	Suburban Area	Urban Area
<del>4,999—4,500</del>	<del>100</del>	<del>None</del>
<del>4,499—4,000</del>	<del>200</del>	<del>None</del>
<del>3,999—3,500</del>	<del>300</del>	<del>None</del>
<del>3,499—3,000</del>	<del>400</del>	<del>240</del>
<del>2,999—2,500</del>	<del>500</del>	<del>360</del>
<del>2,449—2,000</del>	<del>600</del>	<del>480</del>
<del>1,999—1,400</del>	<del>720</del>	<del>600</del>

Average lot size may be reduced to this square footage	Upon providing this amount of compensating open space per lot (square feet)	
	City	Extraterritorial Jurisdiction
<u>4,999—4,500</u>	<u>None</u>	<u>100</u>
<u>4,499—4,000</u>	<u>None</u>	<u>200</u>
<u>3,999—3,500</u>	<u>None</u>	<u>300</u>
<u>3,499—3,000</u>	<u>240</u>	<u>400</u>
<u>2,999—2,500</u>	<u>360</u>	<u>500</u>
<u>2,449—2,000</u>	<u>480</u>	<u>600</u>
<u>1,999—1,400</u>	<u>600</u>	<u>720</u>

**Sec. 42-~~185~~183. Standards for compensating open space.**

(a) Compensating open space may be used to reduce the minimum lot size requirement only to the extent that the area proposed to be dedicated to compensating open space meets the requirements standards of this section.

(b) The following areas shall not be used for or considered compensating open space:

- (1) Areas designated or used as lots or building sites for dwelling units, utility or storage purposes, carports or garages;
- (2) Driveways, private roadways, or streets;
- (3) Private medians less than 12 feet wide; or
- (4) Except as provided by section 42-~~195-192~~ of this Code, detention ponds, drainageways, water areas including floodplains and floodways, or ravines.

(c) Compensating open space shall be reasonably dry and flat, unless the area is within an open space amenities plan approved by the commission pursuant to section 42-~~195-192~~ of this Code.

(d) The ground floor square footage of a building used for recreational purposes, at the option of the applicant, may be included in calculating compensating open space ~~to be~~ provided that the recreational use of the building is shown as a plat restriction on the face of the subdivision plat.

(e) The minimum size of any area used for compensating open space shall be 240 square feet, with dimensions of 20 feet by 12 feet.

(f) Any area used for compensating open space:

- (1) Shall be restricted for the use of owners of property in and residents of the subdivision;
- (2) Shall be owned, managed and maintained under a binding agreement among the owners of property in the subdivision; and
- (3) Shall be accessible to all of the residents of the subdivision.

(g) Compensating open space can be used to provide courtyard access from groups or clusters of lots adjacent to one or more streets provided that the minimum distance between the opposing faces of the buildings forming the courtyard is 20 feet.

**Sec. 42-184. Optional performance standards for the reduction in lot size within the city.**

A subdivision plat for property located within the city may provide for a single-family residential lot size of less than 3,500 square feet, but not less than an average of 1,400 square feet, for lots with adequate wastewater collection service, if the subdivision plat meets the following performance standards and includes plat notations requiring compliance with the following performance standards:



- (1) More than 60% of the area of each lot that is less than 3,500 square feet is not covered by buildings, or for a subdivision plat that is solely a replat of a lot on a corner at the intersection of two public streets, more than 75% of the area of the lot is not covered by buildings;
- (2) The subdivision plat provides for at least 150 square feet of permeable area on each lot that is less than 3,500 square feet; and
- (3) The number of single-family residential dwelling units that can be constructed within the proposed subdivision plat does not exceed an equivalent density of 27 units to the gross acre of all land within the boundaries of the subdivision plat.

**Sec. 42-~~186~~185. Minimum ~~lot~~ width of a lot.**

(a) The minimum width of any lot along a street or shared driveway shall be 20 feet.

(b) The minimum width of any lot within the city may be 15 feet if the subdivision plat conforms to the following performance standards:

- (1) The average width of all lots within the subdivision plat is greater than or equal to 18 feet. A lot with a width greater than 30 feet shall be counted as 30 feet for purposes of the average lot width calculation of this subsection;
- (2) If the subdivision plat contains one or more blockfaces in their entirety, the average lot width of each blockface within the subdivision plat is greater than or equal to 18 feet; and
- (3) If a subdivision plat includes a lot with a width of less than 20 feet, any subsequent replat of a lot within the subdivision plat shall maintain an average lot width that is greater than or equal to 18 feet. The average lot width for each subsequent replat shall be based on all lots within the original subdivision plat containing a lot with a width less than 20 feet. The subdivision plat and all subsequent replats of lots within the subdivision plat shall contain a plat notation stating the requirements of this item.

**Sec. 42-~~187~~186. Parking for single-family residential uses.**

(a) Each subdivision plat or development plat providing for a single-family residential uses shall provide at least two off-street parking spaces per dwelling unit on each lot except that, in those instances where a secondary dwelling unit of not more than 900 gross square feet is provided, only one additional off-street parking space shall

be required for the secondary dwelling unit.

(b) Each subdivision plat providing for a single-family residential use on property located within the city that includes a shared driveway or a type 2 permanent access easement with six or more dwelling units shall provide one additional parking space for every six dwelling units. Dwelling units on a lot that includes a parking space in excess of the parking requirements of subsection (a) of this section shall not be counted in determining the required number of additional parking spaces required by this subsection. Each additional parking space shall conform to the following requirements:

- (1) The size and dimensions of the parking space shall be in conformance with the requirements of the Construction Code;
- (2) The parking space shall be placed within the boundaries of the subdivision plat, unless the parking space abuts:
  - a. Continuous curb along a public street that is adjacent to or within the plat boundary and that is not a major thoroughfare; or
  - b. Culverts installed in accordance with the requirements of the design manual along an open ditch street adjacent to or within the subdivision plat boundary;
- (3) For a subdivision plat where the lots abut a type 2 permanent access easement and take vehicular access only from a private alley, a parking space may be included within the type 2 permanent access easement;
- (4) The parking space shall not be placed within a shared driveway or within a lot;
- (5) The parking space shall not be placed where parking is prohibited by law; and
- (6) The parking space shall be accessible to all residents of each dwelling unit of the subdivision plat.

**Sec. 42-~~188~~187. Flag lots.**

(a) Each flag lot shall provide for vehicular access to the principal portion of the lot through the staff.

(b) If a flag lot derives access solely from its own staff, the minimum width of the staff shall be 20 feet.

(c) If a flag lot derives its access in common with another lot, the combined

common access shall have a minimum width of 20 feet.

(d) Any area required to be used for vehicular access purposes shall be depicted by a note on the subdivision plat that restricts the portions of the lots for ingress and egress only and that precludes construction of any building, structure, wall or fence within those portions. If the vehicular access is to be shared, the plat note shall clearly indicate the joint or shared nature of the access.

**Sec. 42-~~189~~188. Lot access to streets.**

(a) Each lot shall have access to a street or shared driveway that meets the requirements of this chapter and the design manual, subject to the limitations of this section.

(b) A single-family residential lot shall not have direct vehicular access to a major thoroughfare unless:

(1) The lot takes vehicular access to a major thoroughfare through a shared driveway that meets the requirements of subdivision B of division II of this article; or~~The lot is greater than one acre in size; and~~

(2) The lot is greater than one acre in size and ~~The~~ the subdivision plat contains a notation adjacent to the lot requiring a turnaround on the lot that prohibits vehicles from backing onto the major thoroughfare.

(c) Lots that front on or take access from a permanent access easement must be a part of a unified development scheme where the owners of all lots within the subdivision are legally bound together by deed restriction, contract or any other constituted and binding homeowners association, corporation, or other organization with, as one of its purposes, the continued care and maintenance of all commonly owned properties within the subdivision, particularly the areas established as permanent access easements, and the authority and means to impose binding assessments upon the lot owners for that purpose. Each subdivision plat that contains a permanent access easement shall contain the following notation on the face of the plat:

"THIS SUBDIVISION CONTAINS ONE OR MORE PERMANENT ACCESS EASEMENTS THAT HAVE NOT BEEN DEDICATED TO THE PUBLIC OR ACCEPTED BY THE CITY OF HOUSTON OR ANY OTHER LOCAL GOVERNMENT AGENCY AS PUBLIC RIGHTS-OF-WAY. THE CITY OF HOUSTON HAS NO OBLIGATION, NOR DOES ANY OTHER LOCAL GOVERNMENT AGENCY HAVE ANY OBLIGATION, TO MAINTAIN OR IMPROVE ANY PERMANENT ACCESS EASEMENT WITHIN THE SUBDIVISION, WHICH OBLIGATION SHALL BE THE SOLE RESPONSIBILITY OF THE OWNERS OF PROPERTY IN THIS SUBDIVISION."

**Sec. 42-~~190~~189. Points of access.**

Any subdivision that includes more than 150 lots shall have at least two points of access separated from each other by a distance of at least 250 feet to a public street outside the boundaries of the subdivision.

**Sec. 42-191.190. Tracts for non-single-family use -- Reserves.**

(a) A tract of land that is not restricted to single-family residential use shall not be designated on a subdivision plat as a lot, but shall be designated as a reserve and shall be subject to those provisions of this chapter pertaining to reserves.

**Sec. 42-192. Reserves.**

(ab) A subdivision plat shall identify each reserve by alphabetical letter and shall show the total acreage of the reserve within the delineated reserve boundaries. The applicant may note on the plat the use intended for each reserve. The applicant shall identify a reserve tract for which it has not determined a use as an unrestricted reserve.

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

TYPE OF RESERVE	MINIMUM SIZE	<del>STREET TYPE</del> <del>TYPE OF STREET OR SHARED DRIVEWAY</del>	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	<del>5,000</del> <u>Minimum size required by the design manual</u> sq. ft.	public street or type 1 permanent access easement	50 feet	20 feet
Restricted reserve--Compensating open space	240 sq. ft.	public street or type 1 permanent access easement	50 feet	12 feet
		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 water repressurization	5,000 sq. ft.	public street or type 1 permanent access easement	50 feet	50 feet
		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
<u>Restricted reserve-- parking</u>	<u>Minimum size requirement for a parking space specified in the Construction Code</u>	<u>public street or type 1 permanent access easement</u>	<u>50 feet</u>	<u>Minimum width of a parking space required by the Construction Code</u>
		<u>type 2 permanent access easement</u>	<u>28 feet</u>	
		<u>shared driveway</u>	<u>16 feet</u>	
Restricted reserve--All other	5,000 sq. ft.	public street	60 feet (50 feet in a street width exception area)	60 feet

**Sec. 42-~~193~~191. One foot reserves.**

Subdivision plats shall provide a one-foot reserve within the street right-of-way as a buffer strip dedicated to the public to prevent access to public streets when a proposed public street stub ends into adjacent acreage or where the proposed public street is adjacent to the plat boundary and abutting acreage.

The following notation shall be placed upon the face of the subdivision plat:

"ONE-FOOT RESERVE DEDICATED TO THE PUBLIC IN FEE AS A BUFFER SEPARATION BETWEEN THE SIDE OR END OF STREETS WHERE SUCH STREETS ABUT ADJACENT PROPERTY, THE CONDITION OF THIS DEDICATION BEING THAT WHEN THE ADJACENT PROPERTY IS SUBDIVIDED OR RE-SUBDIVIDED IN A RECORDED SUBDIVISION PLAT, THE ONE-FOOT RESERVE SHALL THEREUPON BECOME VESTED IN THE PUBLIC FOR STREET RIGHT-OF-WAY PURPOSES AND THE FEE TITLE THERETO SHALL REVERT TO AND REVEST IN THE DEDICATOR, HIS HEIRS, ASSIGNS OR SUCCESSORS."

**~~Sec. 42-194. Lot sizes--Urban area--Special minimum lot size area.~~**

~~— (a) — To preserve the lot size character of existing residential neighborhoods in urban areas that do not have minimum lot size established by deed restrictions, the minimum lot size may be established pursuant to this section through the creation of a special minimum lot size area, and a minimum lot size so created will prevail over any lesser minimum lot size established by this article. An area qualifies for establishment of a special minimum lot size pursuant to this section unless all lots in the area to be designated are subject to a deed restriction establishing a uniform minimum lot size for the area.~~

~~— (b) — The establishment of a special minimum lot size area shall be initiated by application to the department in the form prescribed by the director. The application shall include the following:~~

~~— (1) — The proposed boundaries of the special minimum lot size area, which shall be no less than one blockface and no more than two opposing blockfaces;~~

~~— (2) — A map or sketch showing the address and land use for all lots within the proposed special minimum lot size area;~~

~~— (3) — Data for each lot within the proposed special minimum lot size area showing the actual size of each lot;~~

~~— (4) — A petition signed by at least one owner of property proposed to be included within the special minimum lot size area; and~~

~~— (5) — Evidence of support from the owners of property within the proposed special minimum lot size area.~~

~~— (c) — The director shall initially review each application for the creation of a special minimum lot size area to determine whether it is complete and shall indicate the date on which the application was determined to be complete. The director shall return an incomplete application with an explanation of the deficiencies. Within ten days after determining that an application for the creation of a special minimum lot size area is complete, the director shall give notice of the application for the creation of a special minimum lot size area to the owners of property within the proposed special minimum lot size area as shown on the most recent tax rolls for the county in which the proposed area is located. Notice shall be given by letter deposited into the United States postal service, postage paid. Notice shall also be given by signs placed in at least two locations within the proposed minimum lot size area. The signs shall conform to the specifications prescribed by the director and shall be posted by the applicant.~~

~~— (d) — A property owner within the proposed special minimum lot size area may~~

~~protest the application for special minimum lot size area by filing a protest with the department within 30 days of the date of the notice letter.~~

~~(e) The director shall determine the minimum lot size for each proposed special minimum lot size area, which shall be the largest existing lot size that lots in 70 percent of the area proposed to be included in the special minimum lot size area are equal to or greater than. If the proposed special minimum lot size area is included within an historic district designated pursuant to article VII of chapter 33 of this Code, the minimum lot size shall be the largest existing lot size that lots in 60 percent of the area proposed to be included in the special minimum lot size area are equal to or greater than. The director shall approve the application for establishment of a special minimum lot size area upon determining that each of the following conditions exist:~~

- ~~(1) The application satisfies each of the criteria of subsection (g);~~
- ~~(2) The petition was signed by the owners of 51 percent or more of the area proposed to be included within the special minimum lot size area; and~~
- ~~(3) A timely protest of the establishment of the special minimum lot size area was not filed by any property owner within the proposed minimum lot size area.~~

~~Upon approval of an application, the director shall take the appropriate steps to refer the application to the city council.~~

~~(f) The director shall promptly refer an application to the commission if he cannot approve the application pursuant to subsection (e) of this section. Within 30 days after the director refers the application for the creation of a special minimum lot size area, the commission shall conduct a public hearing on the application at a regularly scheduled meeting of the commission. The director shall give notice of the public hearing to each owner of real property within the proposed special minimum lot size area by letter deposited into the United States postal service, postage paid, no later than 15 days before the date of the public hearing. The owners of property within the proposed special minimum lot size area and any other person may present comments in person or in writing at the public hearing.~~

~~(g) After the close of the public hearing, the commission shall consider whether to recommend that the city council establish the special minimum lot size area. The commission shall recommend the establishment of a proposed special minimum lot size area if it finds that the application satisfies each of the following criteria:~~

- ~~(1) The boundaries of the proposed special minimum lot size area will include all properties within at least one blockface and no more than two opposing blockfaces;~~
- ~~(2) At least 60 percent of the area to be included within the proposed special~~

~~minimum lot size area, exclusive of land used for a park, library, place of religious assembly or a public or private elementary, middle, junior high or high school, is developed with or are restricted to not more than two single-family residential units per lot;~~

- ~~(3) That the applicant has demonstrated sufficient support for the establishment of the proposed special minimum lot size area to warrant the establishment of the area;~~
- ~~(4) That the establishment of the proposed special minimum lot size area will further the goal of preserving the lot size character of the area; and~~
- ~~(5) That the proposed special minimum lot size area has a lot size character that can be preserved by the establishment of a minimum lot size, taking into account the age of the neighborhood, the age of structures in the neighborhood, existing evidence of a common plan and scheme of development, and such other factors that the director, commission or city council, respectively as appropriate, may determine relevant to the area.~~

~~The commission shall not recommend the establishment of a proposed special minimum lot size requirement area if it finds that the application does not satisfy each of the above criteria. The director shall forward to the city council each commission recommendation for the establishment of a special minimum lot size area. If the commission does not recommend the establishment of a special minimum lot size area, the decision of the commission shall be final.~~

~~(h) In determining whether to establish the proposed special minimum lot size area, the city council shall consider the recommendations of the director or the commission, as applicable, and the criteria in subsection (g). The city council shall establish each proposed special minimum lot size area by ordinance, which shall specify the minimum lot size for the area. The director shall file for recordation in the real property records of the county or counties in which the special minimum lot size area is located the ordinance designating the special minimum lot size area.~~

~~(i) The special minimum lot size area shall terminate 20 years after the effective date of the ordinance establishing the area, unless earlier terminated by an ordinance adopted by the city council.~~

~~(j) The following rules shall govern approval of subdivision plats before and after an application for establishment of a minimum lot size area is filed with the department.~~

~~(1) If a complete, valid subdivision plat application is filed before the time an application for the establishment of a minimum lot size area is filed with the department, the subdivision plat application shall not be subject to the special minimum lot size.~~



- ~~(2) If a complete, valid subdivision plat application is filed after the time an application for the establishment of a minimum lot size area is filed with the department, the subdivision plat application will be subject to the special minimum lot size unless:
  - ~~a. The director determines that the application for the establishment of a special minimum lot size area is not complete; or~~
  - ~~b. The director determines that the proposed special minimum lot size area does not have a lot size that meets the requirements of section 42-194(e) of this Code or the application does not meet the requirements of section 42-194(g) of this Code.~~~~
- ~~(3) If a complete, valid subdivision plat application is filed after the time a complete application for the establishment of a special minimum lot size area is filed with the department, the subdivision plat shall not be approved pending completion of action on the lot size application unless it meets the minimum lot size determined by the director pursuant to Section 42-194(e) of this Code.~~

~~Notwithstanding the provisions of items (2) and (3) of this subsection, if the city council has not completed action on the special minimum lot size area application 180 days after the filing of the subdivision plat application, the subdivision plat application shall not be subject to the special minimum lot size.~~

~~(k) The following rules shall govern approval of subdivision plats, development plats and building permits for lots and tracts subject to a special minimum lot size requirement either adopted pursuant to this section, or to which subsection (j) applies:~~

- ~~(1) For any lot and tract that was in use for single family residential purposes at the time the complete application for establishment of a special minimum lot size area was filed, the subdivision plat, development plat or building permit must provide only for the construction of not more than one primary dwelling unit and one secondary dwelling unit of not more than 900 square feet on a lot. Each lot must meet the minimum lot size requirement of this section.~~
- ~~(2) For any lot or tract that was vacant at the time the complete application for establishment of a special minimum lot size area was filed, the subdivision plat, development plat or building permit must provide only for the construction of not more than one primary dwelling unit and one secondary dwelling unit of not more than 900 square feet on a lot. Each lot must meet the minimum lot size requirement of this section. If the vacant lot or tract was restricted by deed restrictions to any use other than single-~~

~~family residential at the time the complete application for establishment of a special minimum lot size area was filed and is so restricted at the time of the application, this subsection shall not apply.~~

~~(3) For any lot or tract that was not vacant and was in use for other than single family residential purposes at the time the complete application for establishment of a special minimum lot size area was filed, the subdivision plat, development plat or building permit may provide for any use permitted by law or, if applicable, deed restrictions.~~

~~The commission is authorized to grant variances from the requirements of items (1) and (2) of this subsection, but shall not be authorized to grant a variance from the special minimum lot size.~~

### **Sec. 42-~~195~~192. Open space amenities plan.**

(a) All or part of an area included in an open space amenities plan may qualify as compensating open space by complying with the applicable provisions of this section.

(b) Fifty percent of the area in the open space amenities plan qualifies as compensating open space if:

(1) The open space amenities plan contains less than three acres and provides each of the following:

- a. Detention facility, if any, provides a stormceptor if the facility will not be a permanently wet lake or pond;
- b. Detention facility, if any, has a bank slope ratio of 4:1 or flatter;
- c. One 2.5-inch caliper tree from the street tree list, as defined in article V of chapter 33 of this Code, for each 30 feet of the boundary of the area included in the open space amenities plan:

~~(i)~~[1] Planted at least 20 feet apart without extreme variation in spacing along pathways;

~~(ii)~~[2] Planted in one or more groupings within the area included in the open space amenities plan in a manner consistent with the growth characteristics of the trees; or

~~(iii)~~[3] A combination of both;

d. One or more pathways that provide access to and through the area included in the open space amenities plan and that are a minimum

of five feet wide to be constructed of decomposed granite, asphalt or concrete;

- e. One bench installed for each 500 feet of pathway, with a minimum of one bench;
- f. Amenities are accessible to person with disabilities pursuant to standards of the Americans with Disabilities Act; and
- g. An irrigation system that will irrigate all of the area included in the open space amenities plan other than a permanently wet lake or pond; or

(2) The open space amenities plan contains three acres or more and provides:

- a. All of the amenities listed in item (b)(1); *plus*:
- b. Parking required by chapter 26 of this Code for a class 6 park occupancy.

(c) All of the area within an open space amenities plan qualifies as compensating open space if:

(1) The open space amenities plan contains less than one acre and provides:

- a. All of the amenities listed in item (b)(1); *plus*
- b. At least two of the following:

~~(i)~~[1] Additional landscaping, which may be;

~~A.~~[a] Additional trees from the street tree list, as defined in article V of chapter 33 of this Code;

~~B.~~[b] Shrubs from the approved shrub list contained in appendix D of article V of chapter 33 of this Code;

~~C.~~[c] 4.0-inch caliper trees in lieu of the same number of 2.5-inch caliper trees; or

~~D.~~[d] A combination of the above;

~~(ii)~~[2] Use of decorative stone or pavers in lieu of decomposed granite, asphalt or concrete;

~~\_\_\_\_\_~~ ~~(iii)~~[3] Use of decorative fencing;

~~\_\_\_\_\_~~ ~~(iv)~~[4] Pedestrian scale lighting with a minimum of 0.25 foot-candles at any point along the trail;

~~\_\_\_\_\_~~ ~~(v)~~[5] Bicycle racks sufficient to store five bicycles per acre or portion thereof;

~~\_\_\_\_\_~~ ~~(vi)~~[6] At least one drinking fountain;

~~\_\_\_\_\_~~ ~~(vii)~~[7] A decorative fountain; or

~~\_\_\_\_\_~~ ~~(viii)~~[8] Connectivity with other community amenities;

(2) The open space amenities plan contains at least one acre but less than three acres and provides:

a. All of the amenities listed in item (b)(2); *plus*

b. At least four of the amenities listed in paragraph (c)(1)b; or

(3) The open space amenities plan contains three or more acres and provides:

a. All of the amenities listed in item (b)(1); *plus*

b. At least six of the amenities listed in paragraph (c)(1)b; *plus*

c. Parking required by chapter 26 of this Code for a class 6 park occupancy.

(d) An open space amenities plan shall be submitted in the form and contain the information prescribed by the director. Any area included in an open space amenities plan shall be clearly identified on the corresponding subdivision plat and shall include a table showing the type and quantities of amenities to be provided. The open space amenities plan approved by the commission shall be recorded simultaneously with the subdivision plat.

(e) Failure to provide or maintain any amenity included in an approved open space amenities plan shall be a violation of this chapter.

**Sec. 42-~~196~~193. Rules governing partial replats of certain property.**

(a) The rules in this section govern partial replats of subdivision plats recorded in the real property records and shall apply to each subsequent replat as though it were the first replat of the original subdivision plat. These rules do not apply to

a replat of all the property in the original subdivision plat by all of the current owners thereof. For purposes of this section, "*original subdivision plat*" means the first recorded subdivision plat in which ~~a tract or parcel~~ a plat restriction was included, and a "*partial replat*" means a replat of part of a recorded subdivision plat.

(b) Property within a subdivision plat that does not contain lots restricted to single-family residential or residential use may be replatted to amend any plat restriction contained on the preceding subdivision plat.

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

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

(2) A plat restriction limiting the use of property specifically to "nonresidential" use:

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

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

~~(#)~~[1] The typical lot size in the replat is not less than the typical lot size of lots in the preceding plat; or

~~(#)~~[2] The property abuts a major thoroughfare.

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

(3) A plat restriction limiting the use of property specifically to 'commercial' use:

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

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

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

~~(2)~~[2] The property abuts a major thoroughfare.

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

(4) A plat restriction limiting the use of property to drainage, water plant, wastewater treatment, lift station or similar public utility use may be amended only to permit:

a. Landscape, park, recreation, drainage, open space or similar amenity uses of that property, or

b. Single-family residential use of that property only if the typical lot size in the replat is not less than the typical lot size of lots in the preceding plat.

**Secs. 42-194--42-196. Reserved.**

**Subdivision B. Special Minimum Lot Size Requirements.**

**Sec. 42-197. In general.**

(a) The city council may designate a special minimum lot size block or a special minimum lot size area within the city to preserve the lot size character of a single-family residential neighborhood that does not have a minimum lot size established by deed restrictions. A minimum lot size requirement established pursuant to this division shall prevail over any lesser minimum lot size established by this article. The department shall maintain a list of current special minimum lot size blocks and special minimum lot size areas on its website.

(b) An area is eligible for designation as a special minimum lot size block if it:

(1) Contains not less than one blockface and no more than two opposing blockfaces;

(2) Contains all lots on each blockface within the proposed area;

(3) Forms a contiguous area without containing any out tracts;

(5) Contains lots, at least 60 percent of which are developed for or restricted to single-family use, exclusive of land used for a park, library, place of

religious assembly or an elementary school, junior high school, or high school; and

(6) Contains at least one lot that does not have a minimum lot size established by deed restrictions.

(c) An area is eligible for designation as a special minimum lot size area if it:

(1) Contains not less than five blockfaces composed of 5 lots or more on each blockface;

(2) Contains not more than 500 lots within the same subdivision plat or not more than 400 lots within different subdivision plats;

(3) Contains all lots on each blockface within the proposed area;

(4) Forms a contiguous area without containing any out tracts;

(5) Contains lots, at least 80 percent of which are developed for or restricted to single-family use, exclusive of land used for a park, library, place of religious assembly or an elementary school, junior high school, or high school; and

(6) Contains lots, at least 10 percent of which do not have a minimum lot size established by deed restrictions;

#### **Sec. 42-198. Application.**

(a) An application for designation of a special minimum lot size block or a special minimum lot size area shall be filed with the department by an applicant who shall be the primary contact person regarding the application. The applicant shall be an owner of a lot within the proposed block or area or a representative of a home owner's association, civic association, or other entity representing the interests of individual owners of lots within the proposed block or area. The application shall be in the form prescribed by the director and shall:

(1) Be signed by the owner of a lot within the proposed special minimum lot size block or the owners of ten percent of the lots in a proposed special minimum lot size area. The signature of one owner of a lot shall be presumed to represent the consent of all owners of a lot with more than one owner;

(2) Include an inventory of the lots in the proposed area identifying the address, land use at the time of the filing of the application, area of each

lot, and which lots, if any, have a minimum lot size established by deed restrictions;

(3) For a special minimum lot size block, the applicant shall provide evidence of support from the owners of lots within the proposed area;

(4) For a special minimum lot size area, the applicant shall provide suggestions for suitable and freely available venues in or near the proposed special minimum lot size area for the location of a community meeting at which evidence of support for the application can be determined; and

(5) Include a map depicting boundaries of the proposed block or area that demonstrates compliance with the requirements of subsections (b) or (c) of section 42-197 of this Code.

(b) Prior to the filing of an application with the department, the applicant shall meet with the director. The director shall conduct a preliminary review of the application during the pre-submittal meeting and advise the applicant of any deficiencies that would cause the application to be considered incomplete.

#### **Sec. 42-199. Application review.**

(a) The director shall review each application for completeness and shall determine the effective minimum lot size requirement pursuant to section 42-202 of this Code. If an application satisfies the requirements of section 42-198 of this Code, the director shall consider the application to be complete for an application for a special minimum lot size block or initially complete pending completion of the additional procedures of section 42-201 of this Code for an application for a special minimum lot size area.

(b) If an application does not satisfy the requirements of section 42-198 of this Code, the director shall consider the application incomplete, return the application to the applicant, and advise the applicant of the specific deficiencies within the application.

(c) If an application does not satisfy the requirements of subsection (b) or (c) of section 42-197 of this Code, the director may modify the boundaries of the proposed area by removing a blockface from a special minimum lot size block or one or more blockfaces from a special minimum lot size area so that the boundaries as amended satisfy the requirements, after which the director shall consider the application for a minimum lot size block to be complete or an application for a minimum lot size area to be initially complete.



**Sec. 42-200. Additional procedures for a special minimum lot size block application.**

(a) For an application for a special minimum lot size block, the director shall, within 15 days of the receipt of a complete application, give notice of the application by first class mail to the owners of lots included in the application as shown on the current appraisal district records.

(b) The director shall give notice by electronic mail to each district city council member in whose district any lot within the proposed special minimum lot size block is located.

(c) The notice shall inform the owners of lots of the application and the procedure for review and consideration of the application. The notice shall also inform the owners of lots of their prerogative to file a written protest of the application with the department within 30 days of the date of the notice.

(d) The applicant shall place two signs on each blockface included in the application which shall conform to the specifications prescribed by the director. The director shall approve an alternative to the number and location of signs required by this subsection upon determining that the alternative will provide sufficient visibility of the signs and accomplish the objectives of this section without unduly burdening the applicant. The applicant shall use reasonable efforts to maintain each required sign on each blockface until either the director refers an approved application to city council or the commission takes final action on an application.

(e) For an application signed by the owners of 51 percent or more of the area within the proposed block, if no timely written protest by an owner of a lot within the proposed block is received by the department, the director shall approve the application and refer the application directly to city council for consideration.

(f) If the director is not able to approve the application, the director shall refer the application to the commission for review and consideration pursuant to section 42-204 of this Code.

**Sec. 42-201. Additional procedures for a special minimum lot size area application.**

(a) For an application for a special minimum lot size area, the director, within 30 days of receipt of an initially complete application, shall establish a date for a community meeting on the application which shall be not later than 60 days after determination that the application is initially complete. The director shall give notice of the meeting by first class mail to all owners of lots within the proposed area as indicated on the current appraisal district records not later than 15 days prior to the date of the

community meeting. The notice shall include the date, time, and location of the community meeting, and the procedures for consideration of an application.

(b) The director shall give notice by electronic mail to each district city council member in whose district any portion of the proposed area is located.

(c) The applicant shall place two signs on each blockface within the proposed area that conforms to the specifications prescribed by the director. The director shall approve an alternative to the number and location of signs required by this subsection upon determining that the alternative will provide sufficient visibility of the signs and accomplish the objectives of this section without unduly burdening the applicant. The applicant shall use reasonable efforts to maintain each required sign on each blockface until commission takes final action on an application.

(d) The director shall establish rules for the conduct of the community meeting, and will hold the community meeting within or near the proposed area, subject to the availability of an appropriate venue. At the community meeting, the director shall inform the owners of lots of the application for designation of the proposed special minimum lot size area and the process for review and consideration by the department, commission, and city council.

(e) After the community meeting, the director shall mail a response form by first class mail to the owners of all lots within the proposed area for the purpose of gathering evidence of support for the application. The response form shall be completed and returned by the lot owner and shall indicate whether the lot owner does or does not support designation of the proposed special minimum lot size area. The response form must be signed by the lot owner, delivered or mailed to the director, and if mailed, postmarked not later than 30 days after the date of notice indicated on the response form. The signature of one owner of a lot is presumed to represent the consent of all owners of a lot with more than one owner.

(f) After the deadline for returning response forms mailed in accordance with subsection (e) has passed, the director will determine if owners of 60 percent of the lots in the proposed area support the designation of the special minimum lot size area. If so, the application will be considered complete. If the director is unable to make the determination, the director shall:

(1) Modify the boundaries of the proposed area by removing one or more blockfaces if the modification will result in boundaries where the owners of 60 percent of the lots support designation of the proposed area. If the director modifies the boundaries in a way that achieves 60 percent support, the application will be considered complete; or

(2) Determine that the application fails and that no further action will be taken by the department or the commission. The director shall give notice by first class mail to the owners of all lots within the proposed area as shown on the current appraisal district records that the application has failed to meet the criteria of this subdivision and that there will be no public hearing before the commission.

(g) The director shall forward a complete application for establishment of a special minimum lot size area to the commission for review and consideration pursuant to section 42-204 of this Code.

#### **Sec. 42-202. Determination of special minimum lot size requirement.**

The minimum lot size requirement shall be the smallest lot size of the largest 70 percent of the lots in the proposed block or area. If the proposed area is within an historic district designated pursuant to article VII of chapter 33 of this Code, the minimum lot size requirement shall be the smallest lot size of the largest 60 percent of the lots in the proposed block or area.

#### **Sec. 42-203. Notice of a public hearing before the commission.**

(a) The director shall establish a date for a public hearing on the application before the commission, and give notice by first class mail of the date, time, and location of the public hearing to the applicant and the owners of all lots within the proposed block or area as shown on the current appraisal district records not later than 15 days before the date of the public hearing.

(b) The director shall give notice by electronic mail to each district city council member in whose district any portion of the proposed area is located.

#### **Sec. 42-204. Commission review and consideration.**

(a) The commission shall consider each complete application referred by the director and shall hold a public hearing on the application. After the close of the public hearing, the commission shall consider the application and recommend designation of a proposed special minimum lot size block or a special minimum lot size area that complies with the following criteria:

(1) The proposed area has an identifiable lot size character, taking into account the age of the neighborhood, the age of structures in the neighborhood, existing evidence of a common plan and scheme of development, and other factors that the commission reasonably determines to be relevant to an individual application;

- (2) The establishment of the proposed special minimum lot size requirement will further the goal of preserving the identifiable lot size character of the proposed area;
  - (3) The applicant has demonstrated sufficient support for the application to warrant the designation of the special minimum lot size requirement;
  - (4) The application complies with the application requirements of section 42-198 of this Code and the eligibility requirements of section 42-197 of this Code;
  - (5) For a proposed special minimum lot size area, no blockface within the boundaries includes a significant area developed as or restricted to a use that is not single-family residential use; and
  - (6) For a proposed special minimum lot size area, no blockface within the boundaries includes a significant area that does not share a lot size character with the rest of the proposed area.
- (b) If the commission is unable to recommend designation of the proposed block or area, the commission shall:
- (1) Defer the consideration of the application to a later commission date and request additional information needed to consider the application be provided;
  - (2) Deny the application; or
  - (3) Modify the boundaries of the proposed block or area if the modification will result in boundaries of a block or area that the commission determines to satisfy the criteria of subsection (a) of this section.

**Sec. 42-205. City council review and consideration.**

(a) The director shall submit an affirmative recommendation of the commission to designate the proposed special minimum lot size block or special minimum lot size area to city council, which shall decide whether to designate the block or area based on the criteria of subsection (a) of section 42-204 of this Code.

(b) After designation by city council, the director shall file for recordation in the real property records of the county or counties in which the designated block or area is located, a notice of the city council action for each lot within the designated block or area.

**Sec. 42-206. Ineligibility for inclusion after denial.**

(a) If the commission votes not to recommend the application or the city council votes to deny the application, any lot included within the boundaries of the application at its final consideration is ineligible for inclusion in a new application for a period of one year from the date of the final action.

(b) The director may allow an ineligible lot to be included in a new application upon receipt of new information not known to the applicant at the time of the prior application regarding changed circumstances that the director determines warrants the inclusion of the lot in a new application.

**Sec. 42-207. Term and expiration; application to rescind.**

(a) A special minimum lot size block or special minimum lot size area established by city council after [insert effective date of this ordinance] shall be effective for 40 years after the effective date of the ordinance establishing the area unless earlier terminated by an ordinance adopted by city council or an application to rescind is approved by city council in accordance with this section.

(b) An application to rescind shall comply with the application requirements of section 42-198 of this Code for establishing a special minimum lot size requirement and shall only be accepted by the director during the two year period prior to the twentieth year after the effective date of the ordinance establishing the block or area. The application shall be reviewed in accordance with the provisions of this subdivision for a new application for designation of a special minimum lot size block or special minimum lot size area, as applicable, except as provided by subsection (c) of this section.

(c) After return of the response forms pursuant to section 42-201 of this Code, or after consideration by the commission pursuant to section 42-204 of this Code, an application to rescind a special minimum lot size area shall be reviewed and acted upon as follows:

(1) If the owners of 60 percent of the lots do not support the continued designation of the special minimum lot size area, the application to rescind shall be forwarded to city council for consideration;

(2) If the owners of 40 percent of the lots do not support continued designation of the special minimum lot size area, the boundaries of the area may be modified in accordance with the provisions of this subdivision to achieve an area with 60 percent support for the designation of the area, and the application to rescind the special minimum lot size requirement outside the boundaries as modified shall be forwarded to city council. The special minimum lot size requirement for the area as modified shall be effective for the duration of the 20-year extension; and

(3) If less than 40 percent of the lots do not support continued designation of

the special minimum lot size area, the application to rescind fails and the special minimum lot size requirement shall be effective for the duration of the 20-year extension unless otherwise terminated by city council..

**Sec. 42-208. Rules governing subdivision plats, development plats, and building permits.**

(a) A complete, valid subdivision plat or development plat application filed with the department shall be subject to the special minimum lot size requirement only if it is filed after the time an application for a special minimum lot size block is determined by the director to be complete or an application for a special minimum lot size area is determined to be initially complete.

(b) A subdivision plat that is subject to the minimum lot size requirement shall not be approved if it provides for the creation of a lot that is smaller than a special minimum lot size established by the director pursuant to section 42-202 of this Code.

(c) If a lot was in use for other than single family residential use at the time the application for establishment of a special minimum lot size block was determined by the director to be complete or the application for establishment of a special minimum lot size area was determined by the director to be initially complete, a subdivision plat or development plat for that lot may provide for any use permitted by law.

(d) If a lot that was in use for or restricted to single-family residential use or a vacant lot that was not restricted to a use other than to single-family residential use at the time the application for establishment of a special minimum lot size block was determined by the director to be complete or the application for establishment of a special minimum lot size area was determined by the director to be initially complete, a subdivision plat, development plat, or building permit for that lot shall provide only for the construction of building used for single-family residential use.

(e) If a vacant lot was restricted by deed restrictions to any use other than single-family residential use at the time the application for establishment of a special minimum lot size block was determined by the director to be complete or the application for establishment of a special minimum lot size area was determined by the director to be initially complete, a subdivision plat or development plat for the vacant lot may provide for any use permitted by law.

(f) Notwithstanding the provisions of this section, if the city council has not completed action on the special minimum lot size block or special minimum lot size area application 180 days after the date the application is determined by the director to be complete, the subdivision plat or development plat application shall not be subject to the special minimum lot size.

**Secs. ~~42-197~~42-209. Reserved.**

DIVISION 5.

EASEMENTS

**Sec. 42-210. Public utility easements.**

(a) An easement for one or more public utilities shall meet the standards of this section and the location, design and width requirements of the design manual and of the respective utility companies.

(b) A public utility easement located along the boundary of a subdivision plat or a development plat shall contain the full width required for the easement, except that one-half of the required width may be shown and dedicated when one of the following conditions is satisfied:

- (1) The property adjacent to the proposed public utility easement is within a recorded subdivision plat as the property that is the subject of the application and which provided for the dedication of a public utility easement contiguous to the proposed easement; or
- (2) The additional public utility easement width is or was previously dedicated by the owner of the adjacent property by separate instrument.

**Sec. 42-211. Drainage easements.**

Each drainage easement shall be located in conformity with the requirements of the design manual and all other governmental agencies with jurisdiction over surface water drainage or flood control within the area in which the proposed subdivision or development is located. Each subdivision plat or development plat that contains a drainage easement shall contain a restriction on the plat that:

- (1) Prohibits all properties abutting the easement from the construction of fences or buildings, whether temporary or permanent, and the installation or maintenance of plantings or other obstructions to the operation and maintenance of the drainage facility within the drainage easement; and
- (2) Prohibits any property abutting the drainage easement from draining directly into the drainage easement except by means of a drainage structure approved by the director of public works and engineering or the authorized public drainage or flood control official.

**Sec. 42-212. Private easements; fee strips.**

All easements or fee strips created prior to the subdivision or development of any

tract of land shall be shown on the subdivision plat or development plat with appropriate notations indicating the name of the holder of the easement or fee strip, the purpose of the easement, the dimensions of the easement or fee strip tied to all adjacent lot lines, street rights-of-way and plat boundary lines and the recording reference of the instruments creating and establishing the easement or fee strip. If an easement has not been defined by accurate survey dimensions, such as an "over and across" easement, the subdivider shall request the owner of the easement to define the limits and location of the easement through the property within the plat boundaries. If the holder of an undefined easement does not define the easement involved and the applicant certifies to the director the owner's refusal to define the easement, the subdivision plat or the development plat shall provide accurate information about the centerline location of all existing pipelines or other utility facilities placed in conformance with the easement owners' rights.

**Secs. 42-213--42-229. Reserved.**

DIVISION 6.

MULTI-FAMILY RESIDENTIAL DEVELOPMENTS

**Sec. 42-230. Application requirements.**

(a) In addition to the information otherwise required to be submitted for a development plat, a development plat that provides for the development of one or more multi-family residential buildings shall provide the following information:

- (1) The number of separate buildings that will contain multi-family residential dwelling units;
- (2) The location of the principal entrance to each multi-family residential building;
- (3) The total number of dwelling units;
- (4) An itemized listing of multi-family residential dwelling units indicating the number of bedrooms in each dwelling unit; and
- (5) The number, location and dimensions of off-street parking spaces required to serve the dwelling units pursuant to section 42-234 of this Code.

(b) When property is replatted to remove a one-foot restricted reserve, the subdivision plat shall additionally provide all of the information required for a development plat and required by subsection (a) of this section and shall be deemed a development plat for the purposes of this division.

**Sec. 42-231. Private streets--General standards.**



(a) A development plat that contains a multi-family residential building shall provide at least one private street. The private street shall remain clear at all times for emergency vehicle access. No parking shall be allowed within the private street. Except as provided in section 42-235 of this Code, a private street shall comply with the requirements of this section.

(b) Width:

- (1) The minimum right-of-way width for a private street shall be 28 feet, which is coterminous with the pavement width measured from edge-to-edge across the surface of the pavement.
- (2) At the option of an applicant, for a distance of not more than 100 feet from the intersection of the private street and the right-of-way of a public street, the right-of-way width of the private street may be comprised of two paving sections of not less than 20 feet each, separated by a curbed section of not less than five feet and not more than 20 feet in width.

(c) Intersections:

- (1) Intersections along private streets shall be a minimum of 65 feet apart.
- (2) When a private street intersects with another private street at a 90-degree angle, the private street shall provide a 20-foot radius at the intersection.
- (3) When a private street intersects with another private street at an angle less than 90 degrees, but more than 80 degrees, the private street shall provide a 25-foot radius at the intersection.

(d) The centerline radius of a reverse curve on a private street shall not be less than 65 feet. Reverse curves shall be separated by a tangent of not less than 25 feet.

**Sec. 42-232. Points of access; termination.**

(a) Except as otherwise provided in this section, the private street system serving each multi-family residential development shall form a loop that provides more than one point of access to the development from the public streets adjacent to the boundaries of the development. A divided entrance shall not constitute two separate points of access.

(b) When two points of access are provided from the same public street, the private street shall not be deemed to have a second point of access unless the private street connecting the two points of access extends into the property one-third of the depth of the property.

GRAPHIC UNAVAILABLE: [Click here](#)

(c) Notwithstanding the foregoing, a multi-family residential development on a tract of land of one acre or less shall not be required to provide more than one point of access to a public street.

(d) A dead-end private street intersecting with a public street or with a private street may be extended up to 200 feet without a turnaround provided that a fire hydrant is located not more than 100 feet from the intersection of the dead end private street with the public street or looped private street.

(e) A private street is exempt from complying with the provisions of subsections (a) and (b) if it terminates in a "P" turnaround configuration that is comprised of a center island that is 40 feet wide and 90 feet long surrounded on four sides by a 28 foot wide paved private street. The center island shall be established by a raised portion that has a radius of 20 degrees on each 40-foot wide end of the island. The interior of the center island may be used for parking, providing that no parking is allowed within the 28-foot private street.

GRAPHIC UNAVAILABLE: [Click here](#)

#### **Sec. 42-233. Fire protection.**

(a) Fire hydrants shall be located along each private street in a manner that will allow fire fighting apparatus to park and connect by hose to a hydrant not more than 300 feet away and reach any part of any building within the development with a 200-foot long hose extending from the equipment. The hose distance shall be measured as laid on the ground, around buildings, fences and other obstacles, and not as an aerial radius from a hydrant or parked equipment. Notwithstanding the foregoing, fire hydrants shall be located not more than 600 feet apart, unless the fire chief approves a different configuration where, in his professional judgement, fire protection needs can be adequately provided.

(b) If a multi-family residential building will be constructed over and across a private street, the unobstructed overhead clearance of the multi-family residential building shall be not less than 14 feet measured between the highest point of the private street paving under the building and the lowest part of the building or associated parts thereof.

(c) The fire chief shall review and approve each development plat that provides for one or more multi-family residential buildings and shall provide the director with recommendations regarding the adequacy of the design of the development to provide sufficient emergency access to all buildings by firefighters and fire fighting equipment, considering the kinds of equipment and methods of fire-fighting in use by the fire department of the city, the location of buildings in the proposed development and their relationship to existing and proposed fire hydrants and any other factors that

may affect the safety and general welfare of the public and the occupants of the buildings to be constructed.

**Sec. 42-234. Parking.**

(a) Each development plat containing a multi-family residential development shall provide off-street parking spaces in accordance with the following schedule:

UNIT SIZE	PARKING SPACES REQUIRED PER UNIT
Efficiency	1.25
One bedroom	1.333
Two bedrooms	1.666
Three or more bedrooms	2

In determining the total number of spaces required, any fraction of one-half or less shall be counted as the next smaller whole number and any fraction in excess of one-half shall be counted as the next higher whole number.

(b) Parking space arrangements, sizes of spaces and driveway openings shall be in conformance with the building code. 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.

**Sec. 42-235. Performance standards.**

A multifamily residential development with a density of 30 dwelling units or more per acre that meets each of the performance standards of this section shall be exempt from the requirements of sections 42-231, 42-232(a), 42-232(b), 42-233(a), and 42-233(b) of this Code:

- (1) The development provides fire truck access to all fire hydrants by a 20-foot wide fire lane along which no parking is allowed, a 28-foot wide private street or a public street. The fire lane or private street may loop through the development or may terminate at a dead end if the dead end is less than 500 feet. A dead end longer than 150 feet but less than 500 feet must have an "L", "T" or 90-foot diameter circular turnaround, as depicted in figures 1, 2, and 3. No dead end may be greater than 500 feet;
- (2) Fire hydrants are located no further than 20 feet, measured perpendicularly, from the edge of the pavement of the fire lane, private street or public street. Access to the fire hydrants through any fence is provided by gates with 911 access;
- (3) One fire hydrant is located within 100 feet of the property line on any fire lane or private street, as shown in figure 4.

- (4) Fire hydrants are located so that a fire truck can drive a maximum of 200 feet from a fire hydrant and then use a maximum 300 feet hose length from the edge of pavement at the fire truck around all buildings, as the hose lays on the ground around all obstacles, including but not limited to fences, walls, buildings, structures and trees, as shown in figure 5; and
- (5) The maximum distance between fire hydrants is 600 feet, as shown in figure 6.

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**Sec. 42-236. Open space.**

(a) Except as otherwise provided in this section, each multi-family residential development in the extraterritorial jurisdiction shall provide open space in accordance with the following schedule:

DWELLING UNIT SIZE	SQUARE FEET OF OPEN SPACE REQUIRED PER DWELLING UNIT
Efficiency	200
1 Bedroom	240
2 Bedrooms	320
3 Bedrooms	440
4 Bedrooms	500

For purposes of this section, "open space" shall mean land within the multi-family residential development that is not covered by buildings, covered walkways, parking spaces, private streets or driveways.

(b) In lieu of the requirements of subsection (a) of this section, a multi-family residential development in the extraterritorial jurisdiction may provide for open space by complying with each of the following conditions:

- (1) At least ten percent of the total land area in the multi-family residential development, exclusive of land within the building line requirement area, shall be provided as open space;
- (2) Enclosed amenities, such as an exercise or game room, shall constitute no more than ten percent of the open space provided;
- (3) Each area provided as open space is at least 20 feet wide by 60 feet long;
- (4) Any street trees required to be planted to comply with this Code are located in the street right-of-way; and
- (5) The development plat or subdivision plat provides for the construction of sidewalks that are a minimum of five feet in width within the right-of-way of each street that is adjacent to the development.

(c) The aggregate open space requirement of subsection (a) of this section may be reduced by 15 percent if the development meets each of the following conditions:

- (1) At least 25 percent of the dwelling units have individual enclosed garages within the buildings where the dwelling units are located; and
- (2) Areas within the building line requirement are not used for parking.

(d) The aggregate open space requirement of subsection (a) of this section may be reduced according to the following schedule if the development meets each of the following conditions:

- (1) Any street trees required to be planted to comply with city ordinance are located in the street right-of-way; and
- (2) The development plat or subdivision plat provides for the construction of sidewalks that are a minimum of five feet in width within the right-of-way of each street that is adjacent to the development.

Development Density	Reduction in Aggregate Open Space
30--39 units per acre	15%
40--49 units per acre	30%
50--59 units per acre	45%
60 units per acre or more	60%

(e) A multi-family residential development in the extraterritorial jurisdiction with five or more stories shall not be required to provide open space.

**Secs. 42-237--42-250. Reserved.**

DIVISION 7.

PARKS AND PRIVATE PARKS\*

**Sec. 42-251. Applicability.**

(a) The regulations contained in this division shall be applicable to all property within the city limits of the city proposed to be developed in whole or in part for single family residential or multifamily residential purposes for which a subdivision plat or development plat is required, unless otherwise noted herein.

(b) These regulations do not apply to replats of land owned by a governmental unit.

**Sec. 42-252. Park dedication required.**

(a) Each single family residential subdivision and multifamily residential development shall provide one or a combination of the following for park or open space purposes:

- (1) Fee simple dedication of land suitable in type and location for development of parks within the park sector in which the subdivision or development is located, which land may be, but is not required to be, located within the subdivision or development creating the dedication requirement; or
- (2) Payment of fees in lieu of the dedication of land for parks in the amount established in section 42-253 of this Code.

(b) The amount of land required to be dedicated for parks shall be proportionate to the development calculated on the basis of the following formula:

$\frac{10 \text{ ac.} \times \text{No. of DU} \times \text{PPDU}}{1000}$
--

Where:

DU = the number of dwelling units in the development;

PPDU = 1.8, the number of persons per dwelling unit for each dwelling unit; and

1000 = the number of residents per 10 acres of park land.

(c) Recordation of a subdivision plat subject to the requirements of this section shall require one or a combination of the following necessary to satisfy the requirements of subsection (a) of this section taking into account any credits authorized pursuant to section 42-254 of this Code:

- (1) For land dedicated to parks within the subdivision, a fee simple dedication on the subdivision plat of the required park land as approved by the parks director;
- (2) For land dedicated to parks outside the subdivision, evidence of recording in the appropriate real property records of a deed of the required park land as approved by the parks director;
- (3) For land established as private park, identification of the required amount of private park as one or more restricted reserves with the following notation on each private park reserve within the subdivision:

'RESERVE RESTRICTED TO PRIVATE PARK PURSUANT TO CHAPTER 42 OF THE CODE OF ORDINANCES, CITY OF HOUSTON, TEXAS. THIS PRIVATE PARK DESIGNATION MAY NOT BE CHANGED WITHOUT APPROVAL OF THE PLANNING COMMISSION OF THE CITY OF HOUSTON, TEXAS.'

Land established as a private park for the purposes of this section may not be replatted to change this designation pursuant to section 212.0146 of Chapter 212 without the approval of the commission. The commission shall not approve a replat that would change the private park designation unless it determines that alternative private park space that satisfies the requirements of this subsection is available within the original subdivision generating the dedication requirement.

- (4) Confirmation of deposit into the park and recreation dedication fund of the fee in lieu of dedication in the amount established pursuant to section 42-253 of this Code; or
- (5) A statement on the plat that payment of a required fee in lieu of dedication has been deferred and shall be paid at the then-current fee prior to the issuance of a building permit for each single family dwelling unit within the subdivision.

(d) Issuance of a building permit for a single family dwelling unit in a subdivision subject to the requirements of this section for which the payment of fees in lieu of dedication has been deferred pursuant to item (5) above shall require confirmation of deposit into the park and recreation dedication fund of the fee in lieu of dedication in the amount per dwelling unit then required by section 42-253 of this Code.

(e) Issuance of a building permit for a multifamily residential development subject to the requirements of this section shall require one or a combination of the following necessary to satisfy the requirements of subsection (a) of this section taking into account any credits authorized pursuant to section 42-254:

- (1) For land dedicated for park purposes, evidence of recording in the appropriate real property records of a general warranty deed of the required park land as approved by the parks director;
- (2) Identification of the required amount of private park on an approved development plat; or
- (3) Confirmation of deposit into the park and recreation dedication fund of the fee in lieu of dedication in the amount established pursuant to section 42-253 of this Code.

(f) If the calculation in subsection (b) of this section results in a requirement of less than one-half acre for property located in the ~~urban~~-area within and bounded by Interstate Highway 610 or one acre for property located in the ~~suburban~~-area outside of Interstate Highway 610, the parks director may require the developer to pay the fee in lieu of land dedication as provided in section 42-253 of this Code. The parks director may approve the dedication of less than one-half acre of property in the ~~urban~~-area within and bounded by Interstate Highway 610 or one acre of property in the ~~suburban~~ area outside of Interstate Highway 610 if the proposed park is a pocket park the need for which is identified in the Parks Master Plan, is adjacent to an existing park or other public space, provides access to a park, or otherwise presents an opportunity to enhance the city parks system consistent with the Parks Master Plan. This limitation, however, shall not apply to limit the size of compensating open space, which shall be governed by section 42-~~185-182~~ of this Code.

(g) Notwithstanding any other provision of this section, the owner of property for which dedication is required may pay a fee in lieu of dedication in the amount determined pursuant to section 42-253 of this Code, and the parks director shall not refuse any payment of a fee in lieu of dedication.

#### **Sec. 42-253. Fees in lieu of land dedication.**

(a) In some instances, the parks director may require the developer to pay fees in lieu of dedicating land. In making this determination, the parks director shall consider the following factors:

- (1) Whether sufficient parkland and open space exists in the area of the proposed development; and
- (2) Whether recreation potential for an area would be better served by



expanding or improving existing parks, by adding land or additional recreational amenities.

The parks director shall notify the developer in writing of the park director's decision to require a fee in lieu of dedication and the reason for the decision. The developer shall be entitled to appeal the park director's decision to the commission.

(b) The dedication requirement shall be met by a payment in lieu of land dedication at a specified dollar amount per dwelling unit determined annually pursuant to this section. Cash payments may be used only for acquisition or improvement of park land and facilities located within the same park sector as the development. Fees may be applied to any type of park site or improvement within the sector in accordance with park department prioritization.

(c) The initial fee in lieu of dedication shall be \$700 per dwelling unit. Each year following certification of the city's tax roll, the director and the parks director shall report to the commission on the amount of fees in lieu of dedication received, expended or encumbered during the preceding 12 months. The report shall also include an analysis of changes in the taxable value of land within the city as certified by each respective county appraisal district. The director and the parks director may recommend an increase in the fee in lieu of dedication based on increases in appraised value. The commission shall review the report, conduct a public hearing on any recommended increase in the fee in lieu of dedication, and issue a final report. The commission shall file its report, which shall advise of any need to increase the fee in lieu of dedication, with the city council. The fee in lieu of dedication shall thereafter, upon approval by the city council, be the amount stated for this provision in the city fee schedule.

#### **Sec. 42-254. Calculations; deductions and credits.**

(a) *Initial calculations.* The parks director shall determine the amount of land required to be dedicated or fees in lieu of dedication to be paid in accordance with sections 42-252 and 42-253 of this Code and as further provided in this section.

- (1) The parks director shall first calculate the amount of park dedication required using the formula contained in subsection (b) of section 42-252 of this Code;
- (2) If the owner of the subdivision or development elects to pay a fee in lieu of dedication, or the parks director requires the payment of a fee in lieu of dedication pursuant to section 42-253 of this Code, the parks director shall calculate the fee by multiplying the number of dwelling units in the subdivision or development by the then-current fee established pursuant to section 42-253 of this Code;
- (3) If the owner of the subdivision or development elects to satisfy the

requirements of this division by a combination of dedication of land and payment of a fee in lieu of dedication, the parks director shall:

- a. First, calculate the total park dedication requirement;
- b. Second, subtract from the total park dedication requirement the amount of land for parks to be dedicated;
- c. Third, calculate a percentage as follows: (remaining park dedication requirement (total park dedication requirement)  $\times$  100); and
- d. Fourth, apply the resulting percentage to the total fee in lieu of dedication to determine the amount of fee in lieu of dedication that has to be paid. This percentage shall be applied to the then-current fee in lieu of dedication per lot when payment of the fee in lieu of dedication is deferred pursuant to subsection (c) of section 52-252 of this Code to determine the fee per dwelling unit.

(b) *Deductions and credits.*

- (1) The number of dwelling units shall be based on an incremental increase in dwelling units. The parks director shall deduct from the initial calculation pursuant to subsection (b) of section 42-252 of this Code the number of dwelling units that the applicant demonstrates to the satisfaction of the parks director existed prior to the application for the subdivision plat or development plat generating the dedication requirement;
- (2) The parks director shall reduce the dedication requirement of section 42-254(a)(1) or the fee in lieu of dedication of section 42-254(a)(2), as applicable, by one or more of the following credits:
  - a. Up to a maximum of 100 percent of the total requirement credit shall be given for each acre or portion thereof of private park land provided within the subdivision or development generating the dedication requirement that meets the requirement of this part. For example, if the total dedication requirement is 5 acres and the applicant proposes to include 2.1 acres of private park within the subdivision, 2.1 acres will be deducted from the total requirement. Private park land eligible for credit must be centrally located within the development, designed so that it cannot easily be joined into one or more adjacent lots with a fence, legally and practically accessible to all residents of the development, and of a size, shape and configuration so that it is likely to be used by residents of the development as determined in comparison to city park standards. Equipment in a private park shall comply with city standards applicable to the type of equipment. When private park land is also

compensating open space, these requirements prevail over any contrary requirements of section 42-~~185-182~~ of this Code.

- b. Up to a maximum of 100 percent of the total requirement credit shall be given for each acre or portion thereof of private park land provided within the subdivision generating the dedication requirement attributable to lots that are for the provision of low and moderate income single family housing as determined pursuant to section 47-319(2) of this Code. If credit is given on a subdivision plat for low and moderate income single family housing, the property owner shall certify prior to the issuance of a building permit for the house that the initial purchase price does not exceed the latest available 12-month listing for median price single family housing in the city as published by the Real Estate Center at Texas A&M University. In the event the initial purchase price exceeds this amount, the property owner making the certification shall pay to the city the then-current fee in lieu of dedication for a single family dwelling unit. If publication of the median price for single family housing is discontinued by the Real Estate Center at the Texas A&M University, the mayor is authorized to select another publication that lists the median price of single family houses in the city.
- c. Up to a maximum of 100 percent of the total requirement credit shall be given for each acre or portion thereof of park land provided as a greenbelt along a creek bed or around the perimeter of the subdivision or development generating the dedication requirement, including improvements to a hike or bike trail that meet city standards.
- d. Up to a maximum of 100 percent of the total requirement credit shall be given for each acre or portion thereof of park land that links one or more parks.

(c) Credits are cumulative, but in no case other than as provided in subitems b and d above shall credits given under this section exceed 100 percent.

#### **Sec. 42-255. Park and recreation dedication fund.**

(a) There is hereby established a special fund for the deposit of all sums paid in lieu of land dedication under this division, which fund shall be known as the "Park and Recreation Dedication Fund." Funds shall only be released from the Park and Recreation Dedication Fund upon approval by the city council of a plan to utilize the funds to build or enhance a park within the park sector from which the funds originated.

(b) The city shall account for all sums paid in lieu of land dedication under this

division with reference to the individual subdivisions or developments that generate the dedication requirement. Any funds paid for such purpose must be obligated by the city within three years after the completion of the contributing subdivision or development, or the completion of the final phase or section of the respective subdivision or development. If the funds cannot be encumbered within the initial three year time period, the parks director may request from the city council a time extension for a period not to exceed an additional one year for the expenditure of the funds. If the extension request is granted and the funds cannot be expended within the one-year extension, the parks director may request from the city council an additional one year extension. Each extension request shall be submitted in writing by the parks director 60 days prior to the expiration period for the funds to be committed by the city, and shall include a detailed justification for the extension request. The owners of the property on the last day of the initial three year period, or any extension thereof, shall be entitled to a pro rata refund of the sum, computed on a dwelling unit basis. The city shall give notice to the owner of the property as shown on the most recent certified tax roll of the county in which the property is located of the right to a refund and the procedure to claim a refund. Notice shall be given by letter deposited into the United States postal service, postage paid, and shall be deemed given on the date of deposit into the United States postal service. The owners of the property must request a refund within one year of notice entitlement. Such request must be made in writing to the parks director, or such right shall be barred.

(c) Where funds have been paid or a dedication for a phased development has been made in accordance with section 42-254 of this Code, and the original developer does not complete all phases of the entire development, credit for any prior dedication or payment shall be applied to subsequent subdivision plats or development plats for the same land on a pro-rata basis by dwelling unit. Increased density shall require the dedication of additional parkland or payment of additional fees.

(d) Moneys in the park dedication fund shall be used for the acquisition and improvement of parks and shall not be used for park maintenance or city staff overhead expenses. Indirect costs reasonably incurred in connection with park acquisition and improvement, such as appraisal fees, environmental assessment costs, legal expenses, engineering and design costs, shall be limited to not more than five percent of total acquisition or improvement cost.

#### **Sec. 42-256. Park location standards.**

A goal of this article is to ensure that parks are easy to access, can be linked with nearby park and recreational facilities, and are generally open to public view or accessible by easement so as to benefit area development, enhance the visual character of the city, protect public safety and minimize conflict with adjacent land uses. Land proposed to be dedicated for parks shall meet the following location standards:

- (1) Where physically feasible, parks should be bound by streets or by other public uses (e.g., school, library, recreation center) to facilitate access and

possible joint use.

- (2) Where residential lots directly abut a park, consideration should be given to future owners' access to the facility and protection from future park uses, such as lighting and noise.
- (3) Street or pedestrian connections to existing and future adjoining subdivisions, private parks or park amenities are desirable to provide reasonable access to parks and private parks.
- (4) Where a proposed subdivision would block or limit access to a park, access ways of not less than ten feet in width may be required through the private development to provide public access to the park. Any easement or private park provided for this purpose will be credited toward any land dedication requirement.
- (5) The land must comply with the Parks Master Plan.

#### **Sec. 42-257. Park land acceptance standards.**

(a) The city council reserves the right to accept or reject an offer of dedication, after consideration of the recommendation of the parks director, and to require the payment of fees in lieu of dedication as provided herein in section 42-254 of this Code.

(b) Land dedicated for park and recreational areas shall be of such size, dimensions, topography and general character as is reasonably required by the city for the type of use necessary to meet the requirements of park facilities as identified for that geographic sector in the city's most current Parks Master Plan.

(c) Land proposed to be dedicated for parks generally shall meet the following requirements. The parks director may recommend the acceptance of the dedication of property that does not meet these criteria if the property is adjacent to an existing park or other public space, provides access to a park, or otherwise presents an opportunity to enhance the city parks system consistent with the Parks Master Plan.

(1) *Minimum size and configuration standards*

- a. Unless determined otherwise by the parks director pursuant to subsection (f) of section 42-252 of this Code, the minimum size of land dedicated for a park in the ~~urban~~-area within and bounded by Interstate Highway 610 shall be one acre.
- b. Unless determined otherwise by the parks director pursuant to subsection (f) of section 42-252 of this Code, the minimum size of land dedicated for a park in the ~~suburban~~-area outside of Interstate

Highway 610 shall be two acres.

- c. Land dedicated for a park shall constitute a contiguous piece of property of such dimensions that it can physically accommodate the types of improvements associated with the park type in the Parks Master Plan.

(2) *Location and access standards.*

- a. The land shall meet the applicable location requirements of section 42-256 of this Code.
- b. The land shall have connectivity to a public street appropriate for the size and use of the park.

(3) *Physical characteristics standards*

- a. The land shall be vacant and cleared of nonvegetative material and shall contain no conditions that could constitute a violation of chapter 10 of this Code.
- b. The land shall not have severe slopes or unusual topography that would not allow the park to be used for its intended purpose without recontouring the property.

(4) *Minimum environmental conditions standards.* Unless provided otherwise in rules promulgated by the parks director, the land shall be reasonably free of recognized environmental conditions. If land is proposed to be dedicated by subdivision plat, prior to submittal of an application for final subdivision plat approval the applicant shall submit either a phase I environmental assessment that shows no environmental conditions exist on the property or a phase II environmental assessment that shows no remediation is required.

(d) Land in a federally designated floodplain or floodway may be dedicated as park land if the land otherwise meets the acceptance standards for park land of this section and any rules promulgated by the parks director.

**Sec. 42-258. Minimum park improvement standards.**

Prior to acceptance by the city and prior to the filing of the final subdivision plat, any park land dedicated to the city or developed as a private park for credit against park land dedication under this division shall meet the standards developed by the parks department. Any improvements provided by the developer to park land shall comply with applicable regulations and codes set forth for such improvements.

**Sec. 42-259. Administration.**

(a) This article shall be administered by the planning department as part of the subdivision process within the city limits, in cooperation with the parks department. The parks board shall have the authority to manage and expend funds in accordance with the city's adopted parks master plan, the capital improvements plan for parks, and related official documents to the extent authorized by the city council for that purpose.

(b) The parks director is authorized to promulgate guidelines for the administration of this article that are consistent with the requirements of this article.

**Secs. 42-260--42-270. Reserved.**

DIVISION 8.

RESIDENTIAL BUFFERING STANDARDS

**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-~~164~~-162 relating to reconstruction after casualty shall apply to this division.

(b) The requirements of this division shall not apply to any of the following:

- (1) An abutting development that is contiguous to or takes access from a major thoroughfare or transit corridor street;
- (2) An abutting development that is contiguous to or takes access from both a local or collector street and a major thoroughfare or transit corridor street;  
or
- (3) An abutting development located within a major activity center.

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

(a) The following standards shall apply to 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 in use for or restricted to single-family residential use if the majority of the lots abutting the side of the property line are greater than 3,500 square feet and 60% of the length of the property line is comprised of lots greater than 3,500 square feet. 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 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 single-family residential lots.
  - b. For an abutting development 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 single-family residential lots.
- (2) The buffer area shall include a 10 foot landscape buffer from the property line of the abutting development. The landscape buffer shall include:
  - a. An 8 foot tall solid masonry wall along the property line or an 8 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 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 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.

**Sec. 42-~~274273~~. Major Activity Center designation.**

(a) The city council may designate any area within the city as a Major Activity Center that meets each of the following criteria:

- (1) The area contains two or more major thoroughfares or abuts a freeway, tollway, or transit corridor street;
- (2) The area is comprised of at least 400 acres of land;
- (3) The area is comprised of at least 10,000,000 square feet of gross floor area developed for uses other than single-family residential use;
- (4) Not more than three percent of the area is in use for or restricted to single-family residential use;
- (5) The area contains properties used for two or more of the following uses: office, commercial, institutional, or multi-family.
- (6) The area is comprised of contiguous tracts and contains no out tracts as determined by the director in his sole professional judgment.

(b) The city council may expand the boundaries of a MAC to include any area abutting the MAC if the boundaries of the MAC as expanded continue to satisfy the criteria of subsection (a) of this section.

(c) An application for the designation or expansion of a MAC shall be filed with the department by one or more owners of property within an area that meets the criteria of subsection (a) of this section, and shall be made on an application form provided by the department. The director shall forward applications that meet the criteria of subsection (a) of this section to the commission which shall hold a public hearing on the application.

(d) The director shall cause notice to be given of a public hearing before the commission to each owner of property within the proposed MAC or area proposed to be added to a MAC and each owner of property in use for or restricted to single-family residential use within 250 feet of the proposed area as shown on the ~~most~~-current appraisal district records. Notice shall be given by United States mail no later than 30 days before the date of the public hearing. The applicant shall give notice of the public hearing before the commission by posting at least two signs within the boundaries of the proposed MAC no later than 30 days before the date of the public hearing. The signs shall be placed at locations selected by the director as reasonably calculated to be seen by occupants of property within the proposed MAC and facing at least one public right-

of-way. Each sign shall be a minimum of four by eight feet in size, and shall contain at a minimum the following items of information:

- (1) That the area is being considered for designation as a MAC;
- (2) A general description of the area being considered for designation;
- (3) The date of the public hearing on the designation; and
- (4) The name and telephone number of a person within the department who can be contacted for additional information.

If the director, in his sole discretion, determines that the size, configuration, traffic patterns or other characteristics of the proposed area warrant the placement of additional signs, the director shall cause an appropriate number of additional signs to be posted. All costs associated with the notice provisions of this section are to be paid by the applicant.

(e) After the close of the public hearing, the commission shall vote on whether to recommend to the city council the designation of the proposed area that meets the criteria of subsection (a). If the commission votes to recommend the designation of the proposed area, by majority vote of those members present and voting, the director shall forward the recommendation to city council for consideration. If the commission does not vote to recommend the designation of the proposed area, the action of the commission with respect to the application is final. If the commission does not recommend designation of an area as a MAC or as an addition to a MAC, the department shall not accept an application for designation of the same or substantially the same area for one year following the date of the commission action.

(f) Upon receipt of the recommendation of the commission, the city council shall hold a public hearing on the recommendation. After the close of the public hearing the city council shall consider the recommendation of the commission and, consistent with the criteria of subsection (a), approve or deny the proposed designation. The decision of the city council with respect to a designation shall be final. If the city council does not designate an area proposed as a MAC, the department shall not accept an application for designation of the same or substantially the same area for one year following the date of the city council action.

**Secs. 42-~~275274~~-42--400. Reserved.**

#### **ARTICLE IV.**

#### **TRANSIT CORRIDOR DEVELOPMENT**

**Sec. 42-401. Purpose; scope.**

(a) Any person owning property abutting a transit corridor street or a type A street may use the performance standards provided by this article for any new development or improvements to that property if the person complies with all the standards of this article.

(b) If a person desires to use the performance standards provided by this article, then the person shall submit for approval by the department a pedestrian access plan with the application for building permit, development plat, or other city permit, as appropriate, for the new development or improvements to that property. The pedestrian access plan shall describe the proposed pedestrian realm, including the locations of existing and proposed sidewalks, clear pedestrian spaces, hardscape, pedestrian amenities and improvements, obstructions, utility lines (both above and below ground), roadways, street lights, required street trees, landscape elements, softscape, construction details, and other information required by the director or the city engineer to determine compliance with this article.

(c) The director is authorized and directed to prepare a map showing type A streets consistent with the requirements and standards of this Code. The director is authorized and directed to periodically revise the map.

**Sec. 42-402. Transit corridor street and type A street pedestrian access standards.**

(a) Where any proposed development or improvements abut a transit corridor street or a type A street, the property owner may build up to the property line abutting the transit corridor street or the type A street, but no closer than 15 feet from the back-of-curb, if the owner provides a pedestrian realm in accordance with this article.

(b) A pedestrian realm shall be at least 15 feet wide and shall include all the public right-of-way between the back-of-curb and the property, and shall also include a minimum six feet wide sidewalk with a minimum six feet wide clear pedestrian space located within a street right-of-way or other public pedestrian access (sidewalk) easement along the entire length of the property abutting the transit corridor street or type A street.

(c) A pedestrian realm shall also comply with all of the following requirements:

(1) At least 50% of the property width adjacent to the pedestrian realm shall include a building facade that shall be located within ten feet of the pedestrian realm;

(2) Any driveways parallel to the pedestrian realm, parking or vehicular traffic (other than approved driveways crossing the pedestrian realm at a right angle) shall be located on an area of the property other than between the pedestrian realm and the facade of a building within 25 feet of the property line parallel to the pedestrian realm;

- (3) One or more public entrances shall be constructed and maintained to any building on the property and within 25 feet of the pedestrian realm either by one or more doors located within the building's facade adjacent to the pedestrian realm or by other pedestrian accessway that does not cross a driveway or parking area;
- (4) No building's doors, other than doors exclusively used for emergency access only, may swing into the clear pedestrian space of the pedestrian realm;
- (5) Publicly accessible and walkable parks or plazas, when adjacent to and connected to the pedestrian realm and when not otherwise used for vehicular parking or traffic, may be considered part of the pedestrian realm for purposes of items (1) and (3) of this subsection;
- (6) At least 30% of the surface area of the facade between ground level and eight feet high of any building that is located within ten feet of the pedestrian realm shall be transparent with windows, doors or other openings;
- (7) The facade of any building within ten feet of the pedestrian realm shall have a window, door or other transparent opening at intervals at least every 20 feet on the ground floor;
- (8) The maximum softscape area in the pedestrian realm shall be 20% of the surface area of the pedestrian realm excluding any driveways;
- (9) Softscape shall be located at least two feet from the back-of-curb of any street area used for parking;
- (10) Any driveways parallel to the pedestrian realm, surface parking, or vehicular traffic (other than approved driveways crossing the pedestrian realm at a right angle) on the property shall be set back from the pedestrian realm at least three feet and shall be separated from the pedestrian realm either by a fence or wall that meets the requirements of item (12) of this subsection or by a hedge of low growing shrubs or dwarf variety plants that ordinarily do not grow more than four feet in height at maturity;
- (11) A property owner may use the performance standards provided by this article for a property that abuts both a transit corridor street and a type A street for that portion of the property abutting the type A street only if the performance standards are also used for all that part of the property abutting a transit corridor street; and

- (12) No fence shall be erected or maintained within the pedestrian realm or within ten feet of the pedestrian realm; provided, however, a fence not exceeding eight feet in height may be constructed on the property outside the pedestrian realm if the fence is constructed so that any portion of the fence that exceeds four feet in height is non-opaque, decorative fencing, that contains at least 80% unobstructed, open views, and if the fence does not contain any wire or chain-link portions.

(d) In order to use the performance standards provided by this article, the transit corridor street or the type A street abutting the proposed pedestrian realm must also comply with the following:

- (1) The transit corridor street or the type A street must be located within a public right-of-way that meets the requirements of section 42-122 of this Code and the street must have a curb aligned and constructed in accordance with the MTFP and the design manual as determined by the city engineer.
- (2) The transit corridor street or the type A street cannot be a state or interstate freeway, freeway frontage road, limited-access highway, or controlled access highway.

**Sec. 42-403. Single family residential developments on transit corridor streets and type A streets.**

(a) A subdivision or development that is restricted to single family residential use adjacent to a transit corridor street or a type A street may build up to the property line abutting the transit corridor street or the type A street, but no closer than 15 feet from the back-of-curb, if the owner provides a pedestrian realm in accordance with this article, including section 42-402.

(b) Any person desiring to use the performance standards provided by this section shall construct, install and maintain sufficient driveway improvements for vehicle turnaround for all vehicles using the property in accordance with the requirements for off-street parking otherwise applicable to commercial property under this Code.

**Sec. 42-404. Dedication.**

The property owner shall dedicate to the public the right-of-way or an easement for any sidewalk or pedestrian realm required by this article. The dedication may be made by plat or by separate written instrument in a form approved by the city attorney.

**Sec. 42-405. Construction and maintenance standards.**

The property owner shall construct, install and maintain the sidewalks, clear pedestrian spaces, and other improvements in the pedestrian realm in accordance with

the design manual and easement documents, if any.

**Sec. 42-406. Provisions cumulative.**

Except as expressly provided by sections 42-402 and 42-403 of this Code, the provisions of this article are cumulative of the other provisions of this Code. To the extent that any landscaping or sidewalk governed by this section is also subject to regulation under this Code, then both the provisions of this article and of the Code shall be applicable. The director and other city officials may establish procedures under which the pedestrian plan required by persons desiring to use the pedestrian realm performance standards of this article may be combined with or jointly filed with applications or permits filed under this Code.