

Proposed Amendments to Chapter 42 of the Code of Ordinances

Frequently Asked Questions

4/3/2013

What is Chapter 42 and does it apply to my property today?

Chapter 42 of the Code of Ordinances is a technical ordinance that outlines the rules and regulations for subdividing land and developing within the City of Houston corporate limits and Houston's Extra Territorial Jurisdiction. All property within the jurisdiction of Houston's development review authority is subject to the rules of this ordinance. It was codified as "Chapter 42" in 1982; however its roots are based in state law and date back to 1927.

What is the Extra Territorial Jurisdiction?

The Extra Territorial Jurisdiction, or ETJ, is the area up to 5 miles beyond the limits of the City of Houston that is not part of another city. This area includes much of Harris County, as well as parts of Ft. Bend County, Montgomery County, Waller County, and Liberty County. To see a map of the ETJ boundaries, visit the Major Thoroughfare and Freeway Plan link under Mobility at the Department's webpage: www.houstonplanning.com.

If a neighborhood is deed restricted, do the amendments impact the neighborhood?

Neighborhoods that have deed restrictions that restrict land use to single-family residential, establish building setback lines, prevent further subdivision of lots, and include a minimum lot size; will not be impacted. If the deed restrictions do not address the standards mentioned previously, or if you live in a neighborhood with no deed restrictions, then property owners could apply for the Special Minimum Lot Size and Building Line protections that are included in the proposed amendments. These protections will allow you to maintain the existing character of the neighborhood.

Will the amendments change the City's traffic or drainage requirements?

Chapter 42 does not address traffic or drainage. Drainage requirements are found in Chapter 9 of the Public Works & Engineering (PWE) Infrastructure Design Manual; Chapters 13 and 19 of the Code of Ordinances; 2010 Harris County Flood Control Policy Criteria Manual; and Appendix E of the 2006 International Building Code. Traffic requirements are found in Chapter 15 of the PWE Infrastructure Design Manual, and Chapters 40 and 45 of the Code of Ordinances. All new development is required to meet the standards in the above-mentioned regulations.

What tools are available to protect neighborhoods?

Three tools will be included with these amendments that help protect neighborhoods.

1. Special Minimum Lot Size: neighborhoods without deed restrictions or where the deed restrictions do not address lot size may apply for the Special Minimum Lot Size protection that would allow single-family neighborhoods to establish a minimum lot size standard and maintain the character of lots for 40 years unless terminated.
2. Special Building Line: neighborhoods without deed restrictions or where the deed restrictions do not address building setbacks may apply for a Special Minimum Building Line (setback) to maintain the existing character for 20 years.
3. Construction/Maintenance Easement Agreement: a change to Chapter 10 of the Code of Ordinances which would require a construction and perpetual maintenance agreement with abutting property owners when

construction occurs within three feet of the side or back property line adjacent to single-family residential properties. If the property owners do not agree, a minimum three-foot setback must be adhered to.

How can a neighborhood protect itself from more dense development or shared driveways?

The best way to protect a neighborhood is through establishment and upkeep of deed restrictions. For neighborhoods without deed restrictions, or the restrictions do not address lot size or building, the proposed amendments include a provision that allows neighborhoods to apply for the Special Minimum Lot Size and Building Line protections that would allow neighborhoods to establish lot size or building setbacks based upon the current conditions found in each block. (See question above)

Does this change where multi-family development can be constructed?

No. Multi-family developments are allowed today in all parts of the city where no restrictions exist against multi-family development. There is no change proposed in the ordinance for multi-family developments.

How does the existing condition survey work?

When a new subdivision plat within the City is filed that includes single-family residential, the property owner will be required to provide an existing conditions survey that shows physical features (utility poles, driveways, curbs, sidewalks, trees, etc.) within the property being platted, as well as within the adjacent public right-of-way. This document will give the City more information about the physical constraints of the site at the beginning of the development process and help stop issues that typically arise later when the property owner applies for building permits.

What will be the impact on property values in a neighborhood?

Property values are determined by a multitude of factors, most of which are not the result of changes to Chapter 42.

Are new developments required to provide open space?

Open Space standards in Chapter 42 are required for lots that are less than the standard 3,500 square foot lot size in the City in the form of Compensating Open Space. A property owner may opt to provide open space by meeting lot coverage standards and limiting the density of the development to 27 dwelling units per acre. In 2007, the ordinance was amended by adding the requirement to dedicate park land for all new residential developments within the city limits. Property owners have an option to pay a fee-in-lieu of land dedication. Fees are used by the Parks and Recreation Department to pay for acquisition of park land and improvements in existing parks within the Park Sector the monies were collected. There are no proposed changes to the park dedication standards of Chapter 42.

Does the 27 dwelling unit per acre density cap apply to multi-family and single-family?

No. The density cap of 27 dwelling units per acre applies only to new single-family residential subdivisions in the City where the property owner chooses to limit lot coverage (the building footprint compared to the overall lot size) to meet the open space requirements.

Can the Planning Commission disapprove a subdivision plat application or development plat (site plan) application if the neighborhood objects to the proposed development?

The Planning Commission is required by state law to approve an application that meets the requirements outlined in Chapter 42. If a variance or special exception is requested with an application that does not meet all of the requirements, then the Planning Commission has some discretion on whether to approve or disapprove the item.

If I have specific questions about the proposed amendments, who can I contact?

The Planning Department staff is ready to assist you by phone at (713) 837-7701 or via email at pd.planning@houstontx.gov.