City of Houston, Texas, Ordinance No. 2015-639

AN ORDINANCE AMENDING CHAPTERS 10, 33, 39, 40, AND 42 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO SUBDIVISION PLATTING AND DEVELOPMENT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EMERGENCY.

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WHEREAS, in the exercise of its lawful authority, the City of Houston may enact police power ordinances to promote and protect the health, safety, and welfare of the public; and

WHEREAS, the City may, under the provisions of Chapter 212 of the Texas Local Government Code ("Chapter 212"), establish by ordinance general rules and regulations governing subdivision plats and development of land within its corporate limits and area of extraterritorial jurisdiction in order to promote the health, safety, morals or general welfare of the City, and to promote the safe, orderly and healthful development of the City; and

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

WHEREAS, on May 14, 2015, the Planning Commission of the City of Houston held a public hearing on the proposed amendments to Chapter 42; and

WHEREAS, on June 10, 2015, 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 33 of the Code of Ordinances is hereby amended by adding Section 33-111 to read as follows:

"Sec. 33-111. Screening of electric meters on residential properties.

A single-family or multi-family residential development that contains three or more electric meters that are clustered together in a group meter or gang meter configuration that is visible from the right-of-way shall install screening around the electric meters in accordance with the following:

(1) The screen must be constructed out of wood, lattice, metal, brick, vegetation, or other opaque fencing material;

(2) The screen must be tall enough to obstruct the view of the electric meters from the right-of-way; and

(3) The screen shall provide for at least three feet of front clearance from the face of the meter and at least two feet of side clearance from the electric meter, or the minimum clearance for electric meters required by all utility companies with authority to service the electric meters."

Section 3. That Section 39-63 of the Code of Ordinances is hereby amended to read as follows:

"**Sec. 39-63. Eligibility for basic garbage collection service.**

The following residential units shall be eligible for basic garbage collection service:

(1) Except as provided in item (2) of this section, residential units abutting a public street;

(2) A development or subdivision containing private streets, permanent access easements or shared driveways, that has 25 residential units or less, shall be eligible to receive automated garbage collection service, provided at least one residential unit located within such development or subdivision is adjacent to or abuts at least one public street and has direct access to that public street, if:

a. The development or subdivision has at least ten feet of frontage on a public street, not including the driveway, for each residential unit within the development or subdivision; or

b. The development or subdivision contains an area that:

[1] Contains two distinct 5 foot by 5 foot square areas for each residential unit in the development or subdivision for the placement of automated service containers and recycling containers;

[2] Does not extend more than 5 feet into the roadway, as that term is defined in Chapter 42 of this Code;

[3] Does not block or prohibit access to driveways, fire hydrants, or sidewalks;

[4] Is not on private property; and

[5] Is on a flat surface free of physical features such as utility poles, trees, and other obstructions."

Section 4. That Chapter 40 of the Code of Ordinances is hereby amended by adding Section 40-13 to read as follows:

"**Sec. 40-13. Group mailboxes or cluster box units.**

For purposes of this section, a cluster box unit means a pedestal-mounted or wall-mounted centralized mail receptacle containing multiple mailboxes. A group mailbox or cluster box unit may only be constructed in the public right-of-way if the group mailbox or cluster box unit does not obstruct:

(1) A sidewalk, street, or other paved improvement in the public right of-way;

(2) Visibility at the intersection of a street with a private driveway or another street; and

(3) Access to utilities, fire hydrants, or other objects lawfully placed within the public right-of-way."

Section 5. That Section 42-1 of the Code of Ordinances is hereby amended by amending the definition of the word "blockface" to read as follows:

"*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. A street shall be considered to terminate at the intersection of a railroad or a drainage channel required by a governmental entity with flood control jurisdiction, except for purposes of the intersection spacing requirements of this chapter."

Section 6. That Section 42-1 of the Code of Ordinances is hereby amended by adding a definition of "business day" in the appropriate alphabetical location to read as follows:

"*Business day* shall mean any day of the week except for Saturday, Sunday, any legal holiday, or any other day on which city offices are closed."

Section 7. That Subsection 42-40(b) of the Code of Ordinances is hereby amended to read as follows:

"(b) An application for the approval of a subdivision plat that is a replat and not subject to the notice provisions of section 42-49 of this Code shall also be accompanied by a current title report."

Section 8. That Subsection 42-40(e) of the Code of Ordinances is hereby amended to read as follows:

"(e) The city attorney shall review each application for a subdivision plat that is subject to the notice provisions of section 42-49 of this Code. The applicant shall pay for the cost associated with this provision in the form of a non-refundable fee set forth for this provision in the city fee schedule."

Section 9. That Item (3) of Section 42-46 of the Code of Ordinances is hereby amended to read as follows:

"(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;

d. Screening for bulk containers that meets the applicable requirements of article VI of chapter 39 of this Code; and

e. Location of gang mailboxes or cluster box units that are constructed in the public street pursuant to section 40-13 of this Code, as applicable; and"

Section 10. That Subsection 42-47(c) of the Code of Ordinances is hereby amended to read as follows:

"(c) The applicant for a variance shall pay all costs and shall provide information in the form prescribed by the director associated with the notice provisions of section 42-83 of this Code."

Section 11. That Subsection 42-48(c) of the Code of Ordinances is hereby amended to read as follows:

"(c) The applicant for a special exception shall pay all costs and shall provide information in the form prescribed by the director associated with the notice provisions of section 42-83 of this Code."

Section 12. That Subsection 42-49(a) of the Code of Ordinances is hereby amended to read as follows:

"(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) The information required in the form specified by the director to provide notification in accordance with this section.

(3) All costs associated with the notice provisions of this section."

Section 13. That Section 42-49 of the Code of Ordinances is hereby amended by adding Subsections (d) and (e) to read as follows:

"(d) The director shall give notice of a public hearing by mailing a letter, first class, postage paid, to the owners of all lots or tracts that are within 250 feet of the boundary of the subdivision 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 current appraisal district records before the 15th day before the first meeting at which the commission will first consider the application;

(e) The director shall give notice of a public hearing by mailing a letter by first class, postage paid, or by electronic mail message to each neighborhood association registered with defined boundaries with the department in whose area the subdivision plat is located as soon as reasonably possible before the first meeting at which the commission will consider the application."

Section 14. That Section 42-54 of the Code of Ordinances is hereby amended to read as follows:

"Sec. 42-54. Application fees.

(a) The director 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 city

fee schedule that shall be paid by an applicant for services performed by the department in accordance with the provisions of this chapter. 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.

(b) Unless otherwise specified in the city fee schedule, application fees shall be doubled for work performed without prior authorization or approval required by this chapter."

Section 15. That Subsection 42-80(a) of the Code of Ordinances is hereby amended to read as follows:

"(a) Approval of a preliminary or final class III plat or a class II plat shall be valid for a period of 12 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."

Section 16. That Section 42-81 of the Code of Ordinances is hereby amended by deleting Subsection (e) and renumbering the subsequent Subsections.

Section 17. That Subsection 42-129(a) of the Code of Ordinances is hereby amended to read as follows:

"(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."

Section 18. That Subsection 42-132(c) of the Code of Ordinances is hereby amended to read as follows:

"(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."

Section 19. That Section 42-135 of the Code of Ordinances is hereby renumbered as Section 42-134, and the corresponding references in Item 42-81(g)(1) and Section 42-163 are amended to reflect the renumbered section.

Section 20. That Sections 42-145(a) and 42-145(b) of the Code of Ordinances are hereby amended to read as follows:

"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) No part of a shared driveway shall be more than 200 feet from a type 1 permanent access easement or a public street that is not an alley and that contains a roadway. The distance shall be measured along the centerline of the shared driveway starting from the intersection with the type 1 permanent access easement or the public street.

(3) A shared driveway may be any 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 type 1 permanent access easement or a public street that is not an alley and that contains a roadway;

(4) 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;

(5) 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;

(6) 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

(7) 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 type 2 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 type 1 permanent access easement or 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 type 1 permanent access easement or 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."

Section 21. That Subsection 42-150(d) of the Code of Ordinances is hereby amended by deleting the phrase "for habitable structures" from the row for "Type 2 Permanent Access Easements."

Section 22. That Section 42-151 of the Code of Ordinances is hereby amended to read as follows:

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

(a) 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, decorative features, and habitable area if:

a. The encroachment is cantilevered into the building line requirement and is not supported by other means;

b. The lowest point of the encroachment is at least 9 feet higher than the highest point of the building foundation;

c. The encroachment for habitable living area for each floor does not have an area greater than 50% of the total area of the building façade for that floor; and

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

(c) For a building line requirement less than 10 feet established by this article along a collector or local street, an encroachment of up to 30 inches shall be permitted for eaves, bay windows, balconies, fireplace chimneys, decorative features and habitable living area if:

(1) The encroachment is cantilevered into the building line requirement and is not supported by other means;

(2) The lowest point of the encroachment is at least 9 feet higher than the highest point of the building foundation;

(3) The encroachment for habitable living area for each floor does not have an area greater than 50% of the total area of the building façade for that floor; and

(4) The encroachment is not within 10 feet of aboveground utility lines except those individual service lines used to connect the building to the utility lines, as measured horizontally from the point of the encroachment closest to the utility lines,.

(d) An encroachment of up to 30 inches into the building line requirement along a type 2 permanent access easement established by this article shall be permitted if:

(1) The encroachment is cantilevered into the building line requirement and is not supported by other means; and

(2) The lowest point of the encroachment is at least 9 feet higher than the highest point of the building foundation.

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

(1) The encroachment is cantilevered into the building line requirement and is not supported by other means; and

(2) The lowest point of the encroachment is at least 12 feet higher than the highest point of the shared driveway paving.

(f) An encroachment into the building line requirement as provided by this article shall be permitted for any building that has received a certificate of appropriateness issued pursuant to article VII, chapter 33, of this Code, relating to historic preservation, evidencing approval of the encroachment into the building line requirement.

(g) An existing building may encroach into the building line requirement established by this article if:

(1) The existing building was constructed in accordance with the building line requirement that was in effect at the time the building was constructed;

(2) Additional construction on the portion of the existing building that encroaches into the building line requirement does not expand the size, footprint, or any dimension of the encroachment;

(3) The portion of the existing building that encroaches into the building line requirement is not reconstructed in a way that replaces the structural elements of the encroachment; or

(4) A subdivision plat filed with the department after [insert effective date of the ordinance] that includes a tract containing the existing building depicts the encroachment as a dual building line and contains a plat notation that requires compliance with the terms of this section."

Section 23. That Subsection 42-157(c) of the Code of Ordinances is hereby amended to read as follows:

"(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 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 , 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; or

(2) 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. All electrical service installations for the development are installed according to Centerpoint Energy's service standards for the underground installations including the dedication of any easements required by Centerpoint Energy for the underground installation."

Section 24. That Section 42-161 of the Code of Ordinances is hereby amended to read as follows:

"Sec. 42-161. 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. The maximum height of the visibility triangle shall be 20 feet as measured vertically from the ground."

Section 25. That Subsection 42-170(b) of the Code of Ordinances is hereby amended to read as follows:

"(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, utility, drainage or detention, public recreation or community center, library, place of religious assembly or an elementary, junior high, or high school. For purposes of this item, a vacant lot that contained a structure or was used for any lawful purpose within the five years prior to the date the application was accepted by the director shall be considered to be in use for the most recent lawful use of that lot; and

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

Section 26. That Item 42-171(a)(5) of the Code of Ordinances is hereby amended to read as follows:

"(5) Include a map depicting boundaries of the proposed special minimum building line block."

Section 27. That Section 42-172 of the Code of Ordinances is hereby amended to read as follows:

"Sec. 42-172. Application review.

(a) Upon receipt of an application, the director shall evaluate the application to determine whether the application meets the requirements of section 42-171 of this Code. The director shall inform the applicant of whether the application is accepted or rejected within two business days of receipt of the application and if the application is rejected, the director shall give written notice to the applicant of the specific deficiencies of the application.

(b) If an application is accepted pursuant to subsection (a) of this section, the director shall:

(1) Within two business days, update the list of special building line applications and designations on the department website to include:

a. The reference number for the application;

b. A description of the location of the minimum lot size block proposed by the application;

c. The date when 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 pursuant to section 42-179 of this Code; and

d. The status of the application.

(2) Within 30 business days, 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 eligibility requirements of section 42-170 of this Code, the director shall consider the application to be complete. If an application does not satisfy the eligibility requirements of section 42-170 of this Code, the director shall either:

a. Consider the application incomplete, return the application to the applicant for revision, and advise the applicant of the specific deficiencies within the application; or

b. For an application with two blockfaces, 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.

(c) The director shall, within 15 business 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.

(d) 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.

(e) 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.

(f) 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, and the director finds that the application meets the approval criteria of section 42-175 of this chapter, the director shall approve the application and refer the application directly to city council for consideration.

(g) 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."

Section 28. That Subsection 42-173(a) of the Code of Ordinances is hereby amended to read as follows:

"(a) The following formula shall be used to determine the special minimum building line requirement:

(1) List all of the lots within the proposed special minimum building line block that have an existing building constructed in descending order of building lines.

(2) Express each lot's building line as a percentage of the total sum of the building lines within the proposed special minimum building line block by dividing the building line of each lot by the sum of the combined building lines of all lots within the entire special minimum building line block.

(3) Add the areas expressed as a percentage in the order of the list until the cumulative sum of the percentages reaches 70 percent or greater, or in the case of a special minimum building line block within a historic district designated by city council, 60 percent or greater.

(4) The building line of the lot at which the cumulative sum reaches the percentage required by item (3) of this section is the special minimum building line requirement."

Section 29. That Section 42-178 of the Code of Ordinances is hereby amended to read as follows:

"Sec. 42-178. Term and expiration; application to rescind; application to renew.

(a) A special minimum building line requirement established pursuant to an application that the director determines to be complete after [insert effective date of this ordinance] shall terminate 40 years after the effective date of the ordinance establishing the requirement, unless terminated earlier by an ordinance adopted by the city council. A special minimum building line requirement established pursuant to an application that the director determines to be complete before [insert effective date of this ordinance] shall terminate 20 years after the effective date of the ordinance establishing the special minimum building line requirement unless terminated earlier by an ordinance adopted by city council.

(b) An application to rescind a special minimum building line requirement shall comply with the application requirements of section 42-171 of this Code except that items (3), (4), and (5) of subsection (a) of section 42-171 of this Code shall not be required. The application to rescind shall be accepted by the director no earlier than five years after the effective date of the ordinance establishing the special minimum building line requirement, and no earlier than five years after the final action on the most recent application to rescind the special minimum building line requirement. Notwithstanding the foregoing, an application may be accepted by the director if the applicant provides new information regarding changed circumstances that the director determines warrants the acceptance of the application. The application shall be reviewed in accordance with the provisions of this subdivision for a new application for designation of a special minimum building line requirement, as applicable, except as provided by subsection (c) of this section.

(c) In addition to the criteria for reviewing an application to establish a special minimum building line requirement in this subdivision, an application to rescind a special minimum building line requirement shall be evaluated in accordance with the following:

(1) If the application is not signed by the property owners of 67 percent of the area within the special minimum building line block, the application fails and no further action shall be taken;

(2) If the application is signed by the property owners of 67 percent of the area within the special minimum building line block and no timely written protest is received by the department, the director shall approve the application and refer the application directly to city council for consideration; and

(3) If the application is signed by property owners of 67 percent of the area within the special minimum building line block and a timely written protest is received by the department, the director shall refer the application to the commission. The commission shall approve the application and refer the application to city council for consideration if the special minimum building line block no longer satisfies the criteria of section 42-175 of this Code.

(d) An application to renew a special minimum building line requirement shall comply with the application requirements of section 42-171 of this Code except that items (2), (3), (4), and (5) of subsection (a) of section 42-171 shall not be required. The application to renew shall be accepted by the director no earlier than two years before the expiration of the ordinance establishing the special minimum building line requirement. The application shall be reviewed in accordance with the provisions of this subdivision for a new application for designation of a special minimum building line requirement, as applicable, except as provided by subsection (e) of this section.

(e) For an application to renew a special minimum building line requirement that does not receive a timely protest by an owner of a lot within the proposed special minimum building line block, and the director finds that the application meets the approval criteria of 42-175 of this chapter, the director shall approve the application and refer the application directly to city council for consideration."

Section 30. That Section 42-179 of the Code of Ordinances is hereby amended to read as follows:

"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 seventh day following the date an application for a special minimum building line block is published online by the director in accordance with subsection (b) of section 42-172 of this Code.

(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 or equal to 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 business days after the earlier of the date the application is determined by the director to be complete or the date after the end of a time period during which that the director fails to timely perform an action required by the application review requirements of section 42-172 of this Code, a subdivision plat, development plat, or building permit application shall not be subject to the special minimum building line requirement."

Section 31. That Subsection 42-197(b) of the Code of Ordinances is hereby amended to read as follows:

"(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;

(4) Contains lots, at least 60 percent of which are developed for or restricted to single-family use, exclusive of land used for a park, utility, drainage or detention, public recreation or community center, library, place of religious assembly or an elementary school, junior high school, or high school. For purposes of this item, a vacant lot that contained a structure or was used for any lawful purpose within the five years prior to the date the application was accepted by the director shall be considered to be in use for the most recent lawful use of that lot; and

(5) Contains at least one lot that does not have a minimum lot size established by deed restrictions."

Section 32. That Section 42-198 of the Code of Ordinances is hereby amended to read as follows:

"**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;

(5) For a special minimum lot size area, the applicant shall provide a brief description of how the application meets the criteria of subsection (a) of section 42-204 of this Code; and

(6) Include a map depicting boundaries of the proposed block or area.

(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 the procedures for applications as well the criteria used by the commission and city council to evaluate an application. The director shall also advise the applicant of any deficiencies that would cause the application to be considered incomplete or that would cause the application to not conform to the criteria."

Section 33. That Section 42-199 of the Code of Ordinances is hereby amended to read as follows:

"Sec. 42-199. Application review.

(a) Upon receipt of an application, the director shall evaluate the application to determine whether the application meets the requirements of section 42-198 of this Code. The director shall inform the applicant of whether the application is accepted or rejected within two business days of receipt of the application and if the application is rejected, the director shall give written notice to the applicant of the specific deficiencies of the application.

(b) If an application is accepted pursuant to subsection (a) of this section, the director shall:

(1) Within two business days, update the list of special building lot size applications and designations on the department website to include:

a. The reference number for the application;

b. A description of the location of the minimum lot size block or area proposed by the application;

c. The date when a complete, valid, subdivision plat, development plat, or building permit application filed with the department shall be subject to the special minimum lot size requirement pursuant to section 42-208 of this Code; and

d. The status of the application.

(2) Review each application for completeness and shall determine the effective minimum lot size requirement pursuant to section 42-202 of this Code. The director shall determine if an application satisfies the eligibility requirements of section 42-197 of this Code and shall consider the application to be complete within 30 business days of receipt of an application for a special minimum lot size block or initially complete within 60 business days of receipt of an application for a special minimum lot size area.

(c) If an application does not satisfy the eligibility requirements of section 42-197 of this Code, the director shall either:

(1) Consider the application incomplete, return the application to the applicant for revision, and advise the applicant of the specific deficiencies within the application; or

(2) 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, or modify the boundaries in accordance with subsection 42-204(c) of this Code, 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."

Section 34. That Subsection 42-200(a) of the Code of Ordinances is hereby amended to read as follows:

"(a) For an application for a special minimum lot size block, the director shall, within 15 business 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."

Section 35. That Subsection 42-200(e) of the Code of Ordinances is hereby amended to read as follows:

"(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, and the director finds that the application meets the approval criteria of section 42-204 of this chapter, the director shall approve the application and refer the application directly to city council for consideration."

Section 36. That Subsection 42-201(a) of the Code of Ordinances is hereby amended to read as follows:

"(a) For an application for a special minimum lot size area, the director, within 60 business days of receipt of an initially complete application, shall establish a date for a community meeting on the application which shall not take place later than 90 business 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 business 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."

Section 37. That Subsections 42-201(e) and 42-201(f) of the Code of Ordinances are hereby amended to read as follows:

"(e) Not later than 60 days 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) Within 60 business days after the deadline for returning response forms mailed in accordance with subsection (e) has passed, the director shall determine if owners of 55 percent of the proposed area support the designation of the special minimum lot size area. For purposes of determining whether 55 percent of the proposed area supports the designation, the director shall not count land that is owned by a governmental entity or a utility that does not return a response form. If the director finds that 55 percent of the proposed area supports the designation, 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 or modify the boundaries in accordance with subsection 42-204(c) of this Code if the modification will result in boundaries where the owners of 55 percent of the lots support designation of the proposed area. If the director modifies the boundaries in a way that achieves 55 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."

Section 38. That Section 42-202 of the Code of Ordinances is hereby amended to read as follows:

"Sec. 42-202. Determination of special minimum lot size requirement.

The following formula shall be used to determine the special minimum lot size requirement:

(1) List all of the lots within the proposed special minimum lot size block or area that are not owned by a governmental entity or utility in descending order of lot sizes.

(2) Express each lot's area as a percentage of the total area of all lots within the proposed special minimum lot size block or area by dividing the square footage of each lot with the sum of the square footage of all lots within the entire special minimum lot size block or area.

(3) Add the areas expressed as a percentage in the order of the list until the cumulative sum of the percentages reaches 70 percent or greater, or in the case of a special minimum lot size block or area within a historic district designated by city council, 60 percent or greater.

(4) The square footage of the lot at which the cumulative sum reaches the percentage required by item (3) of this section is the special minimum lot size requirement.

Section 39. That Section 42-204 of the Code of Ordinances is hereby amended to read as follows:

"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, 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;

(3) Modify the boundaries of the proposed block or area by removing one or more blockfaces 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; or

(4) Modify the boundaries of the proposed special minimum lot size area in accordance with subsection (c) of this section.

(c) When provided for by this chapter, the boundary of a proposed special minimum lot size block or area may terminate at the location of existing major physical features that create a distinct and identifiable boundary. The modified boundary must satisfy the requirements of subsection (a) of this section, except for item 42-197(c)(3) of this Code. For the purposes of this subsection, major physical features include, but are not limited to, the following:

(1) A public street that:

a. Does not have a roadway;

b. Has a right-of-way width of 100 feet or more; or

c. Is a major thoroughfare;

(2) Property owned in fee by an electric utility and used or intended for use for electric transmission facilities;

(3) A drainage channel required by a governmental entity with flood control jurisdiction, or other creeks, bayous, or other waterways; and

(4) A railroad track;

(5) An existing neighborhood perimeter wall or sound barrier wall; and

(6) A lot on the perimeter of the proposed area that is:

a. More than ten times the size of the proposed special minimum lot size requirement calculated in accordance with section 42-202 of this Code; or

b. Not in use for or restricted to single-family residential use that is abutting a major thoroughfare."

Section 40. That Section 42-207 of the Code of Ordinances is hereby amended to read as follows:

"Sec. 42-207. Term and expiration; application to rescind; application to renew.

(a) A special minimum lot size requirement established pursuant to an application that the director determines to be complete after May 24, 2013 shall be effective for 40 years after the effective date of the ordinance establishing the requirement unless terminated earlier by an ordinance adopted by city council. A special minimum lot size requirement established pursuant to an application that the director determines to be complete before May 24, 2013 shall be effective for 20 years after the effective date of the ordinance establishing the minimum lot size requirement unless terminated earlier by an ordinance adopted by city council.

(b) An application to rescind a special minimum lot size requirement shall comply with the application requirements of section 42-198 of this Code for establishing a special minimum lot size requirement except that items (2) and (5) of subsection (a) of section 42-198 of this Code shall not be required. The application to rescind shall be accepted

by the director no earlier than five years after the effective date of the ordinance establishing the special minimum lot size requirement and no earlier than five years after the final action on the most recent application to rescind the special minimum lot size requirement. Notwithstanding the foregoing, an application may be accepted by the director if the applicant provides new information regarding changed circumstances that the director determines warrants the acceptance of the application 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) In addition to the criteria for reviewing an application to establish a special minimum lot size requirement in this subdivision, an application to rescind a special minimum lot size requirement shall be evaluated in accordance with the following:

(1) For an application to rescind a special minimum lot size block:

a. If the application is not signed by the property owners of 67 percent of the area within the special minimum lot size block, the application fails and no further action shall be taken;

b. If the application is signed by the property owners of 67 percent of the area within the special minimum lot size block and no timely written protest is received by the department, the director shall approve the application and refer the application directly to city council for consideration; and

c. If the application is signed by property owners of 67 percent of the area within the special minimum lot size block and a timely written protest is received by the department, the director shall refer the application to the commission. The commission shall approve the application and refer the application to city council for consideration if the special minimum lot size block no longer satisfies the criteria of section 42-204 of this Code.

(2) For an application to rescind a special minimum lot size area:

a. If the application does not receive the support of the property owners of 67 percent of the area after return

of the response forms required by section 42-201 of this Code, the application fails and no further action shall be taken; and

b. If the application receives the support of the property owners of 67 percent of the area within the special minimum lot size area after return of the response forms required by section 42-201 of this Code, the commission shall approve the application and refer the application to city council if it finds the special minimum lot size area no longer satisfies the requirements of section 42-204 of this Code.

(d) An application to renew a special minimum lot size requirement shall comply with the application requirements of section 42-198 of this Code except that items (2), (3), and (5) of subsection (a) of section 42-198 shall not be required. The application to renew shall be accepted by the director no earlier than two years before the expiration of the ordinance establishing the special minimum lot size requirement. 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 (e) of this section.

(e) In addition to the criteria for reviewing an application to establish a special minimum lot size requirement in this subdivision, an application to renew a special minimum lot size requirement shall be evaluated in accordance with the following:

(1) For an application to renew a special minimum lot size block that does not receive a timely protest by an owner of a lot within the proposed special minimum lot size block, and the director finds that the application meets the approval criteria of 42-204 of this chapter, the director shall approve the application and refer the application directly to city council for consideration;

(2) For a special minimum lot size area, the application to renew shall be administratively approved by the director and forwarded to city council for consideration if the owners of less than 10 percent of the special minimum lot size area oppose the renewal of the special minimum lot size requirement after return of the response forms required by section 42-201 of this Code, and the director finds that the application meets the approval criteria of 42-204 of this chapter; and

(3) Applications that cannot be administratively approved by the director shall be evaluated in accordance with the procedures for applications to establish a special minimum lot size requirement."

Section 41. That Section 42-208 of the Code of Ordinances is hereby amended to read as follows:

"**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 seventh day following the date an application for a special minimum lot size block or special minimum lot size area is published online by the director pursuant to subsection (b) of section 42-199 of this Code.

(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 or equal to the special minimum lot size established by the director pursuant to section 42-202 of this Code.

(c) If a lot is lawfully developed for or is lawfully in use for other than single family residential use at the time the application for establishment of a special minimum lot size block was filed with the department, 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 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 business days after the earlier of the date the application is determined by the director to be complete or the date the director fails to timely perform an action required by this subdivision, the subdivision plat or development plat application shall not be subject to the special minimum lot size."

Section 42. 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 ("Department") 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;

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

4. Any complete application for a special minimum building line block or a special minimum lot size area, and any initially complete application for a special minimum lot size area.

Section 43. That notwithstanding Section 42 of this Ordinance, any complete application for a special minimum building line block or a special minimum lot size block, or any initially complete application for a special minimum lot size area shall be immediately subject to the provisions of Chapter 42 relating to the modification of

boundaries and approval by the Planning Commission and City Council as added by this Ordinance.

Section 44. 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 45. 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 provisions of Section 43 of this Ordinance shall become effective immediately upon the date of its passage and approval by the Mayor.

PASSED AND APPROVED this 24th **day of** June **, 2015.**

Mayor of the City of Houston

Prepared by the Legal Dep't
SOI:soi July 9, 2015
Requested by Patrick Walsh, Director, Planning & Development Department

Assistant City Attorney

AYE	NO	
✓		**MAYOR PARKER**
••••	••••	**COUNCIL MEMBERS**
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
✓		MARTIN
✓		NGUYEN
✓		PENNINGTON
✓		GONZALEZ
✓		GALLEGO
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		ROBINSON
✓		KUBOSH
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	

MAY 017 Rev. 01/14