

**PUBLIC HEARING DRAFT
12-02-11**

Add to Sec. 42-1. Definitions

Abutting development shall mean a structure located on property 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.

Buffer area shall mean the area required by division 8 of article 3 of this chapter measured from the property line of lots in use for or restricted to singlefamily residential use.

Major Activity Center or MAC shall mean an area described in appendix ____ of this chapter or so designated by city council pursuant to section 42-274 of this Code.

Add to Sec. 42-81. Variances.

(i) The commission is authorized to consider and grant a variance from the requirements of section 42-272 of this Code upon determining that the single-family residential lots which cause the property to be an abutting development are in transition from single-family residential lots greater than 3500 square feet, or that because of unique factors, the intent and purpose of section 42-272 would not be achieved if applied to the abutting property. In making this determination, the commission shall consider such factors as:

(1) Whether platting and replatting activity of the single-family residential lots that indicates those lots are in transition has occurred substantially close in time to the application for the variance; and

(2) Conditions unique to the abutting single-family residential lots that cause the application of the provisions section 42-272 of this Code to produce an unfair or unanticipated result.

**DIVISION 8.
HEIGHT 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

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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 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 singlefamily residential use if the majority of the lots abutting the side of the property line are greater than 3500 square feet and 60% of the length of the property line is comprised of lots greater than 3500 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

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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 issued 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. 42-274. 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;

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- (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

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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.