

## **Sec. 41-12. Subdivision identification markers.**

(a) Definition. When used in this section, the term subdivision identification marker means a marker placed in the public right-of-way intended to identify a residential community or residential development with 50 or more platted single-family residential lots. The city engineer may issue a variance for subdivision identification markers for a residential community or residential development with less than 50 single-family residential lots.

(b) Encroachment permit required. A subdivision identification marker installed after December 31, 2008, in the median of a public street right-of-way or in unimproved excess public street right-of-way of a street within, abutting or adjacent to the subdivision must have an encroachment permit issued by the city engineer's office and shall not be subject to the requirements of the Houston Sign Code (Chapter 46 of the City of Houston Building Code).

(c) Design standards. A subdivision identification marker must contain the name of the recorded subdivision, and may contain an insignia or motto of the subdivision in addition to identification directly related to the residential community or development, such as 'deed restrictions enforced' and civic association/homeowner's association meeting announcements. A subdivision identification marker may not include any advertising content unrelated to the subdivision, and may not contain any moving, electronic, LED or other changeable message.

The design of the subdivision identification marker shall conform to the standards set forth in the Infrastructure Design Manual, as promulgated and revised from time to time by the public works and engineering department. The city engineer must approve each request for more than two subdivision identification markers in the public street right-of-way and may restrict the number of subdivision identification markers for a subdivision taking into account the number of lots in the subdivision, the number of major entrances to the subdivision, and the area (acreage) of the subdivision. The city engineer may establish minimum clearances for subdivision identification markers from the edge of the pavement. The city engineer may also specify acceptable foundations for subdivision identification markers in the public street right-of-way and may require frangible or breakaway marker supports. Variances to any design standards for proposed subdivision identification markers must be granted by the city engineer.

(d) Application for encroachment permit. A subdivision developer or homeowners' association may apply to the city engineer for an encroachment permit for subdivision identification markers. The application for subdivision identification markers must identify the person, partnership, association, corporation or other legal entity responsible for the perpetual maintenance of the marker and include a drawing, approved by the public works and engineering department, that shows the design, location, size, height, and material composition of all markers to be permitted, and the location of any utility (water, sanitary sewer, storm sewer, electricity, telephone, cable) facilities in the immediate vicinity of the markers. Each subdivision identification marker must be located so as not to constitute a traffic hazard and shall not be located within the visibility triangle, as defined in section 33-101 of this Code, or otherwise impair the visibility of a vehicle from a road or driveway. The application fee for up to two subdivision identification markers to be located in the public street right-of-way shall be \$175.00, and the application fee for each additional subdivision identification marker to be located in the public street right-of-way shall be \$35.00. All application fees shall be payable at the time of application for an encroachment permit.

(e) Issuance of encroachment permit. An encroachment permit for subdivision identification markers installed or to be installed in the public street right-of-way shall be issued by the city engineer on terms approved by the city engineer. A legal representative for the applicant shall be required to sign the offered encroachment permit to indicate acceptance of the terms and undertakings therein, whereupon the applicant shall then be the holder of the encroachment permit.

(f) Transfer of encroachment permit. An encroachment permit issued to a developer may be transferred to a homeowners' association upon approval of the city engineer following the submittal of an instrument setting forth the undertaking of the homeowners' association to comply with all the terms of the encroachment permit and to assume all the obligations and responsibilities of the prior holder of the encroachment permit.

(g) Existing subdivision identification markers. Subdivision identification markers located within the public right-of-way on December 31, 2008, must be registered with the public works and engineering department. The public works and engineering department shall publish a form to register existing subdivision identification markers. No fees will be assessed for registration of existing subdivision identification markers.

(h) Maintenance, repair and replacement. As used in this subsection, the term holder refers to the holder of an encroachment permit for a subdivision identification marker and the registrant for an existing subdivision identification marker. The holder shall be, and the city shall not be, responsible for any and all maintenance, repair, and/or replacement for the subdivision identification marker, marker support, structure, illumination, and associated landscaping. The city may require the holder, upon thirty-days written notice, to perform maintenance, repair, relocation, or removal of the subdivision identification marker, marker structure, and any associated landscaping. After expiration of the thirty-day notice, the city may cause the maintenance, repair or removal of the subdivision identification marker at the expense of the holder. In the event that the city needs to perform improvements, maintenance, or repairs of infrastructure within the right-of-way, the city may, without providing thirty-days written notice, cause the removal or alteration of the subdivision identification marker or marker structure and landscaping without repair, replacement, or compensation to the holder. In no circumstances shall the city be obligated to repair or replace a subdivision identification marker, or compensate the holder of the marker for any damage caused by the city or other parties.

(Ord. No. 08-1118, § 2, 12-3-08)