

City of Houston, Texas, Ordinance No. 2009-\_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 42 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO SUBDIVISIONS, DEVELOPMENTS, AND PLATTING, BUILDING LINES, AND TRANSIT CORRIDOR DEVELOPMENT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; 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 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 plats and subdivisions 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 heretofore established rules and regulations governing (1) plats and subdivisions of land and (2) development plats within its corporate limits and area of extraterritorial jurisdiction that are codified in Chapter 42 of the Code of Ordinances, Houston, Texas ("Chapter 42"); and

**WHEREAS**, in 2006 the City Council began the Urban Corridor Planning Initiative (the "Initiative") to identify public concerns in light rail corridors; and

**WHEREAS**, the Planning Commission with the assistance of the City's consultants conducted public workshops, received input from the community including development industry groups, neighborhood representatives and the Urban Land Institute, and studied the comments and recommendations received on the Initiative; and

**WHEREAS**, the goal of the Initiative is to encourage an urban environment that improves pedestrian mobility, supports METRO's light rail investment, and helps accommodate the City's anticipated growth; and

**WHEREAS**, the City Council finds that it is appropriate and desirable to adopt certain amendments to Chapter 42 in order achieve the goal of the Initiative and to promote the public health, safety, morals and general welfare of the City; and

**WHEREAS**, the City Council finds that achieving the goal of the Initiative through the amendment of Chapter 42 will have the desired result of increasing over time the density of development on and near transit corridor streets;

**WHEREAS**, the City Council finds that increasing density of development on and near transit corridor street may result in a decrease in vehicular mobility on and near the transit corridor streets, which the City Council further finds is an acceptable consequence of implementing the goal of the Initiative; and

**WHEREAS**, on June 22, 2009, the Planning Commission held a public hearing on the proposed amendments to Chapter 42; and

**WHEREAS**, on July 8, 2009, 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;**

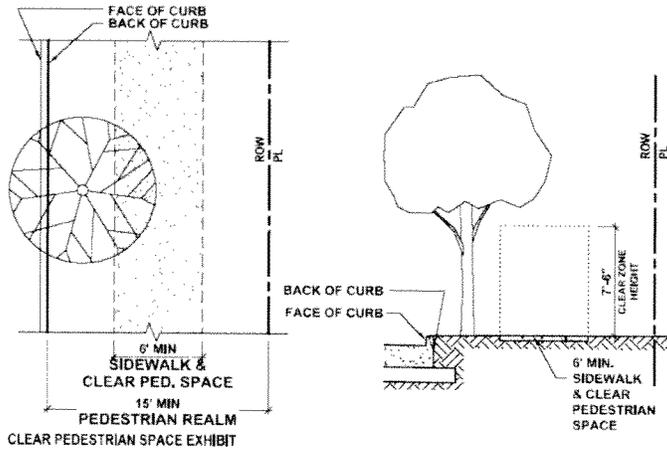
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**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 Section 42-1 of the Code of Ordinances, Houston, Texas, is hereby amended by adding, in the appropriate alphabetical position, the following new definitions:

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

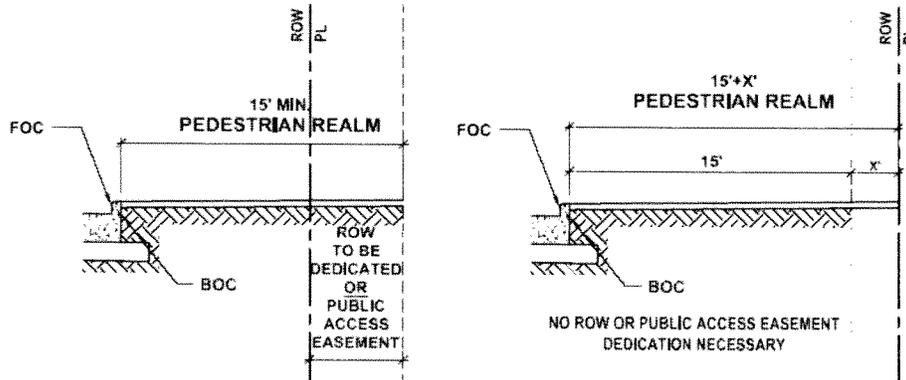
*Clear pedestrian space or clear space* means that area above a sidewalk that forms a continuous, obstacle free path for a minimum width of six feet and a minimum height of seven and one-half feet.



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

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

*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.

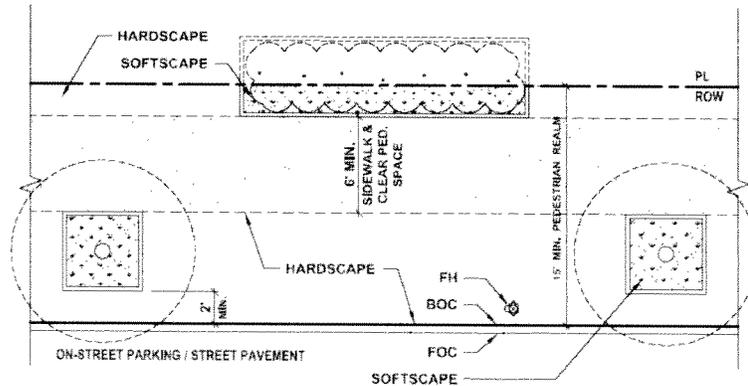


PEDESTRIAN REALM EXHIBIT

*Roadway* means the portion of a public street for vehicular use.

*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.

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



SOFTSCAPE EXHIBIT

*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.

*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 (MFTP). Except for purposes of sections 42-154 and 42-155 of this chapter, a transit corridor street shall be a major thoroughfare street.

*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."

**Section 3.** That the Table at Subsection (c) of Section 42-150 of the Code of Ordinances, Houston, Texas, is hereby amended by replacing the language in the first column "Abutting Major Thoroughfare with Planned ROW of 80' or less" with the following language: "Abutting Major Thoroughfare, Other Than Transit Corridor Street, with Planned ROW of 80' or less."

**Section 4.** That the introductory paragraph of Section 42-154 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Except for a transit corridor street, a building line requirement of 15 feet is authorized for parcels in an urban area that have frontage on a major thoroughfare with a planned right-of-way of 80 feet or less if an applicant submits a subdivision plat or development plat that demonstrates compliance with each of the following standards, if applicable:"

**Section 5.** That the introductory paragraph of Subsection (a) of Section 42-155 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(a) Except for a transit corridor street or as provided in subsection (c), a building line requirement of five feet is authorized for a parcel in an urban area 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

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submits a development plat that demonstrates compliance with each of the following standards.”

**Section 6.** That Chapter 42 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article IV to read as follows:

**“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.

Deleted: The purpose of this article is to encourage an urban environment that improves pedestrian mobility, supports METRO's light rail investment, and helps accommodate the City's anticipated growth. ¶  
¶  
(b)

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(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.

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**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, then 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 10 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 subsections 1) and 3) above;
- (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 10 feet of the pedestrian realm shall be transparent with windows, doors or other openings;

- (7) The facade of any building within 10 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 is 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 subsection (12) below 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 10 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 percent 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.

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**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.”

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**Section 7.** That the Director of the Planning and Development Department is hereby authorized to promulgate rules and guidelines for the implementation of the amendments effected by this Ordinance.

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(b) To the extent of a conflict between the purpose of this article and the provisions of Chapter 15 of the Design Manual as applied to any development using the performance standards of this article, the purpose of this article shall prevail.

Section 8. To the extent of a conflict between the goal of this Ordinance as set forth in the preamble hereto and Section 40-86 of the Code of Ordinances as applied to any development on a transit corridor street, the goal of this Ordinance shall prevail.

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**Section 9.** 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.

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**Section 10.** That there exists a public emergency requiring that this Ordinance be

**INTERNAL DISCUSSION DRAFT July 15, 2009 (DFM)  
NOT YET APPROVED BY CITY ATTORNEY**

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passed finally on the date of its introduction as requested in writing by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.**

**APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009**

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

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is \_\_\_\_\_.

\_\_\_\_\_  
City Secretary

(Prepared by Legal Dep't) \_\_\_\_\_  
(DFM:dfm July 29, 2009) Senior Assistant City Attorney  
(Requested by Marlene L. Gafrick, Director, Planning and Development Department)  
(L.D. File No. 0610600089001)

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