

City of Houston, Texas, Ordinance No. 2011- 1213

**AN ORDINANCE AMENDING THE CONSTRUCTION CODE AND CHAPTER 42 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO SUBDIVISION AND DEVELOPMENT AND RESIDENTIAL BUFFERING; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**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**, pursuant to this authority, the City Council of the City of Houston has adopted rules and regulations governing subdivision plats and the development of land that are codified in Chapter 42 of the Code of Ordinances, Houston, Texas, ("Chapter 42"); and

**WHEREAS**, Chapter 214 of the Texas Local Government Code generally provides that the International Building Code is the standard building code applicable to buildings in the State of Texas; and

**WHEREAS**, the Texas Local Government Code allows municipalities to adopt certain local amendments and local administrative and enforcement provisions for the International Building Code; and

**WHEREAS**, pursuant to this authority, the City Council of the City of Houston has

adopted the International Building Code along with certain local amendments by Ordinance No. 2006-5, and has subsequently adopted further local amendments thereto; and

**WHEREAS**, the City Council finds and determines that certain developments within the City may, by virtue of their proximity to residential development, have a significant adverse impact on established and nearby residential development; and

**WHEREAS**, the City Council finds and determines that in order to promote the public health, safety, and general welfare of the City, it necessary and appropriate for these certain developments within the City to provide reasonable measures to mitigate the adverse impact on neighboring residential developments, such as providing for a buffer area between the development and the neighboring residential development, providing for landscaping within the buffer area, and the screening of parking garages and light fixtures near neighboring residential development; and

**WHEREAS**, the City Council finds and determines that these certain developments do not cause adverse impacts on neighboring residential developments when the developments are located on a major thoroughfare or a transit corridor street; and

**WHEREAS**, the City council finds and determines that these certain developments do not cause adverse impacts on neighboring residential developments when the developments are located within certain areas within the City that have developed in such a manner that these areas can be identified as major activity centers by virtue of their size, mix of land uses, street patterns, and non-residential nature; and

**WHEREAS**, the City Council finds that it is appropriate and desirable to adopt certain amendments to Chapter 42 and the Building Code that provide for these measures

and to promote the public health, safety, morals and general welfare of the City; and

**WHEREAS**, on December 14, 2011, the City Council held a public hearing on the proposed amendments to Chapter 42 and the Building Code; 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 the following definitions in the appropriate alphabetical location, which shall read as follows:

*“Abutting development shall mean a structure located on property not in use for or restricted to single-family residential use 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 III of this chapter measured from the property line of lots in use for or restricted to single-family residential use.*

*Major Activity Center or MAC shall mean an area so designated by city council pursuant to section 42-274 of this Code.”*

**Section 3.** That Article III of Chapter 42 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Division 8 which shall read as follows:

## **“DIVISION 8.**

### **RESIDENTIAL 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 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 single-family 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 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 or parking lot tree list issued and revised 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;
- (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 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.”

**Section 4.** That the areas described in “Exhibit A” attached hereto and made a part of this Ordinance are hereby designated as major activity centers. The city secretary shall

maintain a list of major activity centers designated by city council and their maps for public review and inspection.

**Section 5.** That Section 202 of Chapter 2 of the volume of the City of Houston Construction Code known as the Building Code is amended by adding the following definition in its appropriate alphabetical location:

*“Full cutoff fixture shall mean a light fixture that prevents more than ten percent (10%) of the light it emits from emitting at all angles beginning at 80 degrees up from the nadir to less than 90 degrees, and no light (0%) from emitting at 90 degrees (horizontal plane) and above. This applies to all horizontal angles around the light fixture.”*

**Section 6.** That Chapter 4 of the volume of the City of Houston Construction Code known as the Building Code is amended by adding a Section 406.2.11 which shall read as follows:

**“406.2.11 Garage screening.** Any part of an abutting development, as defined by section 42-1 of the City of Houston Code of Ordinances, used as a parking garage structure shall provide an exterior cover for each floor of the structure where parking occurs that directly faces property in use for or restricted to single family residential use. The exterior cover shall be made of an opaque surface or screen mesh material of sufficient rating to block headlights as defined in this Code. The exterior cover shall be at least 42 inches in height measured from the finished floor where parking occurs and shall not be required on any floor of the parking garage structure which has a finished floor over 50 feet in height from grade. For ramps and other sloped surfaces, the exterior cover shall be positioned to block headlights from emitting any light into adjacent properties in use for or restricted to single-family residential use.”

**Section 7.** That Chapter 5 of the volume of the City of Houston Construction Code known as the City of Houston Electrical Code is amended by adding a Section 513 which shall read as follows:

**“SECTION 513 – FULL CUTOFF FIXTURES**

**513.1** For purposes of this section, abutting development shall have the

definition ascribed to it by 42-1 of the City Code. Full cutoff fixtures as defined in the Building Code shall be required for any wall mounted outdoor fixtures installed on an abutting development installed within 30 feet of an abutting single-family residential property. All pole mounted fixtures installed on an abutting development within 30 feet of an abutting single-family residential property shall be full cutoff fixtures with house side shields.”

**Section 8.** That each of the following shall be processed and considered by the Director of the Planning and Development Department or the Planning Commission, as appropriate, pursuant to the provisions of Chapter 42, Code of Ordinances, Houston, Texas, in effect prior to the effective date of this Ordinance, and the former provisions of Chapter 42 are saved for that limited purpose:

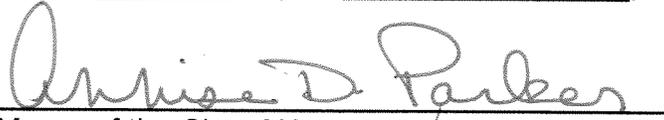
1. Any complete application for a subdivision plat or development plat that is filed with the Department of Planning and Development and pending approval by the Planning Commission prior to the effective date of this Ordinance;
2. Any final plat and subsequent recorded plat that are based on a preliminary plat approved by the Planning Commission prior to the effective date of this Ordinance; or
3. Any plat to be recorded based on a final plat approved by the Planning Commission prior to the effective date of this Ordinance.

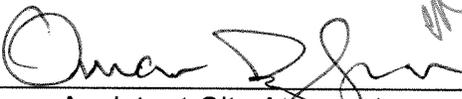
**Section 9.** That if any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their 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.

**Section 10.** 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 this date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND APPROVED this 21st day of December, 2011.

  
 Mayor of the City of Houston

Prepared by the Legal Dep't   
 (SOI December 9, 2011 Assistant City Attorney)  
 Requested by Marlene L. Gafrick, Director, Planning & Development Department  
 L.D. File No. 0611000120001

AYE	NO	
✓		MAYOR PARKER
••••	••••	COUNCIL MEMBERS
	✓	STARDIG
✓		JOHNSON
✓		CLUTTERBUCK
✓		ADAMS
	✓	SULLIVAN
✓		HOANG
	✓	PENNINGTON
✓		GONZALEZ
	✓	RODRIGUEZ
✓		COSTELLO
✓		LOVELL
✓		NORIEGA
✓		BRADFORD
	✓	JONES
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT 10  
 REVIEW  
 DATE: DEC 27 2011

# “Exhibit A”



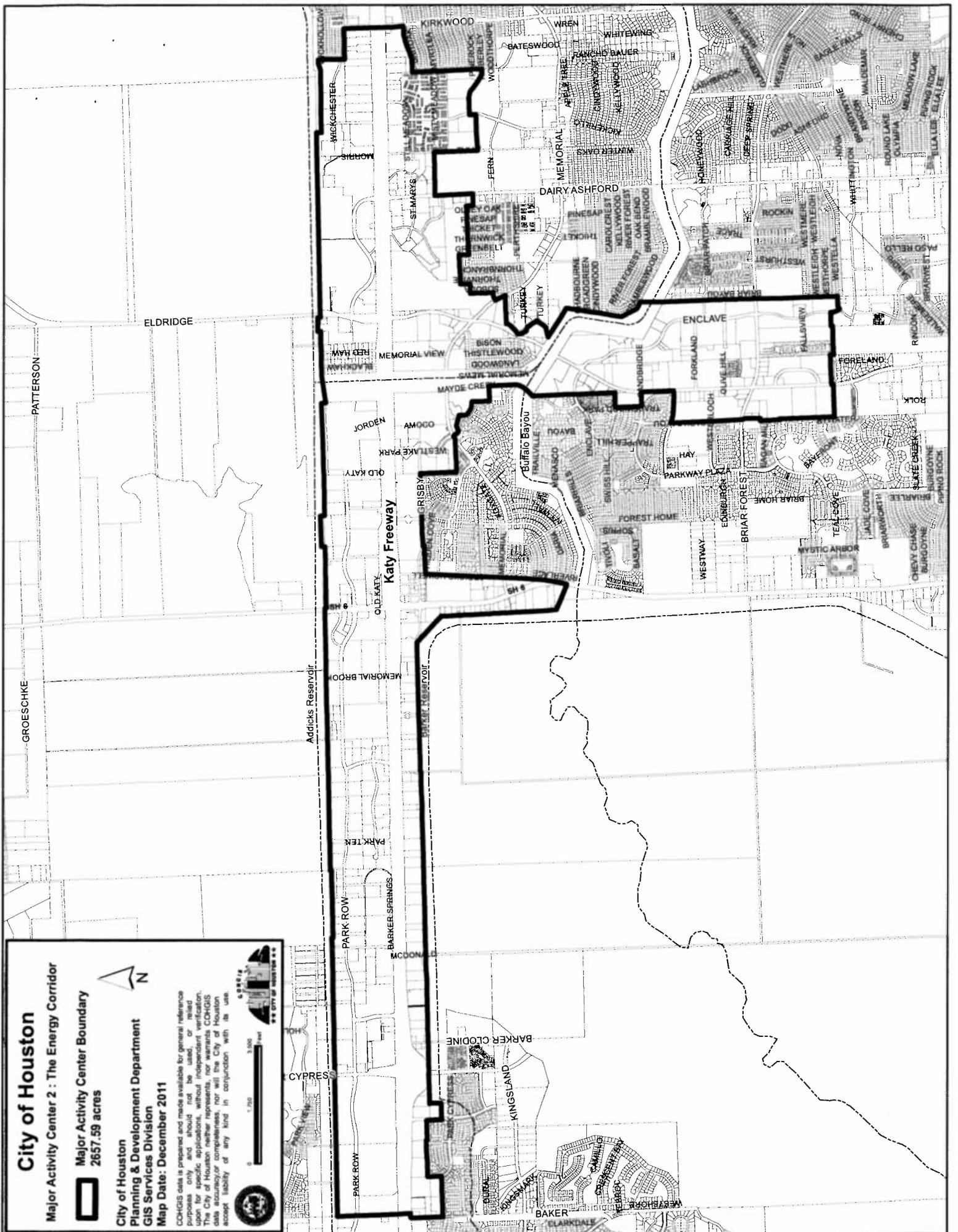
# City of Houston

## Major Activity Center 2 : The Energy Corridor

 Major Activity Center Boundary  
2657.59 acres

City of Houston  
Planning & Development Department  
GIS Services Division  
Map Date: December 2011

COHGIS data is prepared and made available for general reference purposes only and should not be used, or relied upon for specific applications, without independent verification. The City of Houston neither represents, nor warrants COHGIS data accuracy or completeness, nor will the City of Houston accept liability of any kind in conjunction with its use.











# City of Houston

Major Activity Center 7 : Greenway  
326.83 acres



City of Houston  
Planning & Development Department  
GIS Services Division  
Map Date: December 2011

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