

City of Houston, Texas, Ordinance No. 2007-_____

AN ORDINANCE AMENDING CHAPTER 45 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO HIGH DENSITY MULTI-FAMILY DEVELOPMENT ON TWO-WAY, TWO-LANE LOCAL AND COLLECTOR STREETS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, the City of Houston is a municipal corporation organized under the Home Rule Amendment to the Texas Constitution and general and special laws of the State of Texas and exercises the powers granted by such laws as well as those set forth in the City's Charter; 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, certain types of high-density multi-family residential development, whether new development or redevelopment, particularly within areas previously developed in the City, may have a significant adverse traffic impact on the established and nearby areas of the City affected by such development by:

- (1) Increasing traffic congestion, hazardous traffic conditions, travel time and vehicle conflicts on City streets;
- (2) Increasing vehicle/pedestrian conflicts resulting in injury or death to pedestrians; and
- (3) Impeding the ability of police, fire, ambulance and disaster response services to respond effectively to emergency or disaster situations; and

WHEREAS, the City Council finds that it is necessary and appropriate for a person or entity proposing to develop property on a two-lane street with two way traffic within the City to analyze the impacts of the development on traffic on the adjacent public street system through the preparation of a traffic impact analysis; and

WHEREAS, the City Council finds that it may be possible to mitigate adverse traffic impacts associated with new development or redevelopment that are identified through a traffic impact analysis, and that the owner of the development or redevelopment should be responsible for any mitigation; and

WHEREAS, the City Council finds that it is necessary to adopt rules regulating access from certain developments to public rights-of-way within the City to:

- (1) Reduce traffic congestion and hazardous traffic conditions;

- (2) Avoid or minimize conflicts between traffic entering and leaving a development and through traffic;
- (3) Preserve and protect the efficiency and carrying capacity of the public street system;
- (4) Preserve and protect street safety for both vehicles and pedestrians;
- (5) Create opportunities for and remove obstacles to economic development by maximizing the efficiency of the public streets of the city; and
- (6) Preserve and protect the ability of police, fire, ambulance, and disaster response services to respond effectively to emergency or disaster situations; and

WHEREAS, the City Council finds that the regulations proposed in this ordinance do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, or building size; **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 a part of this Ordinance.

Section 2. That Chapter 45 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article VII that reads as follows:

"ARTICLE VII. TRAFFIC REQUIREMENTS FOR CERTAIN HIGH DENSITY RESIDENTIAL DEVELOPMENTS.

Sec. 45-161. Purpose.

There is a need to establish additional development requirements applicable to certain types of high density residential developments, due to the impact of such developments on traffic safety, traffic movement and general mobility and other negative impacts affecting traffic in the area of such developments and, in particular, the effect of such developments on surrounding residential neighborhoods.

Sec. 45-162. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access standards has the meaning ascribed to that term in the design manual.

Applicant means the owner of any proposed development subject to this article or a person with a right to purchase or a contingent right to purchase the property associated with the proposed development and includes any person representing such owner or person in connection with any plat, permit, permission, approval or other matter required from the city in connection with construction of such development.

Design manual shall mean the Department of Public Works and Engineering Infrastructure Design Manual for Wastewater Collection Systems, Water Lines, Storm Drainage, Traffic Access Standards and Street Paving, as it may be amended from time to time.

Development plat has the meaning ascribed in section 42-1 of this Code.

Dwelling unit means a structure, or a portion of a structure, that has independent living facilities including provisions for nontransient sleeping, cooking, and sanitation.

Multi-family residential means the use of property with one or more buildings on a parcel of property designed for and containing an aggregate of three or more dwelling units. The term includes apartments, condominiums, triplexes and quadriplexes.

Sec. 45-163. Application.

This article shall be applicable to any proposed multi-family residential development that meets all of the following criteria:

- (1) Would increase the residential density within the proposed development by 100 percent or more;
- (2) Would comprise 100 or more dwelling units;
- (3) Is proposed to take primary vehicular access from an abutting two-lane local or collector street with two-way traffic; and
- (4) Is either:

- a. A high-rise structure, as defined in the City of Houston Building Code; or
- b. Constructed on a tract containing eight acres or more.

Sec. 45-164. Standards and requirements.

(a) *Traffic impact analysis required.* Prior to the issuance of a building permit, or the approval of a development plat or subdivision plat or the granting of any access from the site of the proposed development to any public right-of-way, including but not limited to the making of curb cuts or other action preliminary or necessary to such access and whether by permit or otherwise, for a development subject to this article, the applicant shall submit to the director a traffic impact analysis addressing the criteria set forth in subsection (b) of this section prepared by a professional engineer licensed by this state and, as applicable, the design manual. The applicant's traffic impact analysis shall include a detailed analysis of traffic impacts to be generated by the proposed development and any proposed mitigation.

(b) *Traffic impact determination.* The director shall determine whether a development subject to this article will result in a significant adverse traffic impact. The director shall determine, in the exercise of his professional judgment, that the development will have a significant adverse traffic impact if he finds that the development will result in:

- (1) An increase in traffic that is substantial in relation to the existing traffic load and area street capacity based on number of vehicle trips, the volume-to-capacity ratio on streets or congestion at intersections; or
- (2) An increase in traffic hazards due to design features of the development in relation to surrounding development and streets, such as sharp curves, dangerous intersections, or lack of sight lines.

(c) *Criteria for determination.* In making such determination, the director shall consider the traffic impact analysis required by subsection (a) of this section and his own professional judgment concerning the following:

- (1) The number and location of entrances and exits to the proposed development;

- (2) The proximity to and proposed use of a major thoroughfare and the proximity to intersections to the proposed development;
- (3) The nature and type of nearby traffic control devices;
- (4) The proximity to a signalized intersection;
- (5) The likelihood and impact of additional traffic to be generated by the proposed development affecting adjacent or nearby neighborhoods;
- (6) The density of the proposed development, including the number of dwelling units and vehicles to be associated with the development;
- (7) The traffic projected to be generated by the proposed development, during both peak hour and non-peak periods, as well as the current traffic load on adjacent and nearby streets;
- (8) Provisions for access to the proposed development for emergency vehicles, including fire-fighting equipment, and, without direct impact on the abutting streets, for garbage collection and other service vehicles;
- (9) The applicant's proposed mitigation plan to handle increased traffic expected to be generated by the proposed development;
- (10) The estimated average volume of pedestrian traffic to be generated by the proposed development as well as the current volume of existing pedestrian traffic, including projected street crossings by both vehicles and pedestrians and the width, size and location of existing sidewalks, if any;
- (11) The availability of mass-transit within 1400 feet of the proposed development;
- (12) The proximity to the proposed development of any churches, day care centers, or primary, secondary or high schools, whether public or private;
- (13) The extent to which the proposed development is a part of a master plan of a development of a larger parcel; and

- (14) Applicable provisions of the design manual.

Sec. 45-165. Determination of traffic impact.

(a) *Basis for determination; conditions.* The director shall issue a written determination indicating whether the proposed development will result in a significant adverse traffic impact in accordance with the preceding subsection.

- (1) If the director finds that the proposed development will result in a significant adverse traffic impact, the director may either issue a denial letter or issue an approval letter, subject to conditions setting out specific adjustments to the traffic impact analysis based on the criteria of section 45-164, above, in order to mitigate or abate the significant adverse traffic impact determined to exist.
- (2) If the director finds that the proposed development will not result in a significant adverse traffic impact, the director shall issue an approval letter which shall apply only to the development as originally proposed and analyzed in the traffic impact analysis. Any subsequent change to the proposed development voids any previously issued approval letter.

(b) *Issuance of determination; effect of conditions.* The director shall provide the applicant, within 30 days of his determination, a written copy of such determination. No development plat or subdivision plat shall be approved, nor any building permit issued, without an approval letter issued by the director. Where the director has imposed any condition, no development plat or subdivision plat shall be approved, or any building permit issued, relating to the proposed development unless the satisfaction of each condition is reflected on the plat or the permit. If any condition relates to a matter that would normally be completed during or after construction, no certificate of occupancy shall be issued for the proposed development until the condition is fully satisfied.

(c) *Appeal.* The applicant shall have 30 days from the date of the director's disapproval of the traffic impact analysis to file a written appeal to the planning commission of the director's determination that the proposed development will result in a significant adverse traffic impact. The planning commission shall, in considering the appeal, base its decision on the criteria set forth in section 45-164 of this Code and the design manual, as applicable. If dissatisfied with the decision of the planning commission, the applicant may appeal to the city council

pursuant to rule 12 of the city council rules of procedure (section 2-2 of this Code). The decision of the city council shall be final with respect to the determination whether the proposed development will result in a significant adverse traffic impact. The prosecution of any appeal of the city council's decision to a court of competent or appropriate jurisdiction shall be on the basis of the substantial evidence rule.

(d) *Application of conditions.* Unless the planning commission or city council determines as a result of the appeal provided in this section that there will be no significant adverse traffic impact caused by the proposed development, the decision of the director to apply any condition to the proposed development to mitigate a significant adverse traffic impact shall be final and may not be altered in an appeal."

Section 3. The provisions enacted by this Ordinance shall not be effective as to any proposed development for which a structural permit has been issued by the Building Official as of the effective date of this Ordinance.

Section 4. That the Director of the Department of Public Works & Engineering is hereby required to evaluate the effectiveness of the provisions adopted by this Ordinance in addressing the concerns set out in the preamble of this Ordinance and to report the results of the evaluation to the Mayor and the City Council not later than December 31, 2008, with recommendations as to any modifications or repeal.

Section 5. 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 application 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 6. 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 immediately upon its passage and approval by the Mayor.

PASSED AND APPROVED this ____ day of _____, 2007.

Mayor of the City of Houston

Prepared by Legal Dept. _____
RDC:asw 10/29/2007 Senior Assistant City Attorney
Requested by Mayor Bill White
L.D. File No.