

ORDINANCE NO.

AN ORDINANCE ESTABLISHING DEVELOPMENT REGULATIONS APPLICABLE TO CERTAIN SINGLE-FAMILY [~~RESIDENTIAL~~], TWO-FAMILY, AND DUPLEX STRUCTURES; ESTABLISHING A WAIVER PROCESS; [~~AND~~] PROVIDING AN EXPIRATION DATE; AND REPEALING ORDINANCE NO. 20060216-043.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. ORDINANCE SUPERSEDES LAND DEVELOPMENT CODE.

This ordinance supersedes Title 25 (*Land Development*) of the City Code to the extent of conflict.

PART 2. DEFINITIONS.

In this ordinance:

- (1) DIRECTOR means the Director of the Watershed Protection and Development Review Department.
- (2) DUPLEX STRUCTURE means a structure containing a dwelling unit used for a duplex residential use, as defined in Title 25 (*Land Development*) of the City Code.
- (3) FLOOR AREA RATIO has the meaning assigned by Title 25 (*Land Development*) of the City Code.
- (4) GROSS FLOOR AREA has the meaning assigned by Title 25 (*Land Development*) of the City Code, except the term:
 - (a) includes the portion of a second or third story of a structure that is covered by a roof, including a [~~eovered~~] porch, portico, breezeway, passageway, or corridor; and
 - (b) excludes a basement with a ceiling that is less than two feet above the average elevation of the front lot line.
- (5) SIDE LOT means a lot that has a common side lot line with the property being developed.

1 (6) SINGLE-FAMILY STRUCTURE means a structure containing a
2 dwelling unit used for one of the following uses, as defined in Title 25
3 (*Land Development*) of the City Code:

- 4 (a) single-family residential use;
- 5 (b) small lot single-family residential use;
- 6 (c) urban home special use; and
- 7 (d) cottage special use.

8 (7) SQUARE FEET means square feet of gross floor area.

9 (8) TWO-FAMILY STRUCTURE means a structure containing a dwelling
10 unit used for a two-family residential use, as defined in Title 25 (*Land*
11 *Development*) of the City Code.

12 **PART 3. APPLICABILITY.**

13 (A) Except as provided in Subsection (B), this ordinance applies to a [~~principal~~]
14 single-family, two-family, or duplex structure located:

- 15 (1) in a subdivision within the City limits for which the original final plat
16 was approved before March 7, 1974; or
- 17 (2) on a tract that may legally be developed without being platted.

18 (B) This ordinance does not apply to:

- 19 (1) an application for a building permit to perform building, electrical,
20 plumbing, mechanical, sidewalk or driveway repairs or to other work
21 that does not increase the size of the structure; or
- 22 (2) an application for a building permit, demolition permit, relocation
23 permit, or remodel permit for a structure that was filed before (effective
24 date of ordinance).

25 **PART 4. SIZE LIMITATIONS.**

26 (A) An application for a demolition or relocation permit for a [~~principal~~]
27 structure must be filed concurrently with an application for a permit described in
28 Subsection (B) or (C).

1 (B) For a building permit for a new [principal] structure on a lot where a
2 [principal] structure has been or will be demolished or relocated, the new
3 [principal] structure's size is limited to the greater of the following:

4 (1) 0.4 to 1 floor-to-area ratio;

5 (2) 2,500 square feet; or

6 (3) 20 percent more square feet than the existing or pre-existing structure.

7 (C) For a remodel permit to increase the size of a [principal] structure, the
8 [principal] structure's size after the remodel is limited to the greater of the
9 following:

10 (1) 0.4 to 1 floor-to-area ratio;

11 (2) 2,500 square feet; or

12 (3) the existing size plus 1000 square feet, if the applicant has been granted
13 a homestead exemption for the [principal] structure.

14 **PART 5. FRONT SETBACKS.**

15 (A) A front setback prescribed by an ordinance zoning property as a neighborhood
16 conservation (NC) combining district or as a neighborhood plan (NP)
17 combining district supersedes this part to the extent of conflict.

18 (B) The minimum front yard setback for a principal structure is the lesser of:

19 (1) the setback prescribed by Section 25-2-492 (*Site Development*
20 *Regulations*); or

21 (2) the setback prescribed by Subsection (D) or (E).

22 (C) In making a determination under Subsection (D) or (E), only a side lot with a
23 single-family, two-family, or duplex structure is considered.

24 (D) This subsection applies to an interior lot.

25 (1) If the lots on both sides of an interior lot are legally developed, the
26 minimum front yard setback of the interior lot is equal to the average of
27 the setbacks of the principal structures on the side lots.

28 (2) If only one lot on a side of an interior lot is legally developed, the
29 minimum front yard setback of the interior lot is equal to the setback of
30 the principal structure on the side lot.

1 (E) This subsection applies to a corner lot.

2 (1) If the lot on the side of the corner lot is legally developed, the minimum
3 front yard setback of the corner lot is equal to the setback of the
4 principal structure on the side lot.

5 (2) If the lot on the side of the corner lot is vacant, the minimum front yard
6 setback of the corner lot is equal to the average setbacks of the principal
7 structures on the other lots in the block on the same side of the street.

8 **PART 6. WAIVER.**

9 (A) The Council may waive a regulation in Part 4 (*Size Limitation*) if the Council
10 determines that:

11 (1) the regulation imposes undue hardship on the applicant; and

12 (a) the development proposed by the applicant will not adversely affect
13 the public health, safety and welfare; or

14 (b) the applicant is proposing to mitigate the effect of the
15 redevelopment by providing adequate safeguards which the Council
16 finds would adequately protect the health, safety and welfare of the
17 public;

18 (2) a development agreement permits the activity;

19 (3) the applicant has a right acquired under Texas Local Government
20 Chapter 245 (*Issuance of Local Permits*), or has a common law vested
21 right that has been fully adjudicated by a court of competent jurisdiction;
22 or

23 (4) the applicant is providing appropriate drainage facilities at the
24 applicant's cost.

25 (B) The applicant for a waiver must:

26 (1) file for an appropriate permit under Part 4 (*Size Limitations*); and

27 (2) prove all facts necessary to satisfy the criteria in Subsection (A).

28 (C) An application for a waiver must be filed with the director on a form provided
29 by the director and must include the following information:

30 (1) the name and address of the applicant;

- 1 (2) the address and legal description of the property;
2 (3) evidence to support the criteria in Subsection (A); and
3 (4) other information that the director may reasonably require to evaluate
4 the waiver application.

5 (D) The director shall make a recommendation to the council on each application
6 for a waiver.

7 (E) The director shall, not later than the third business day after a waiver
8 application is filed, mail notice of the waiver application to the:

9 [~~(1) notice owner of real property located within 300 feet of the subject~~
10 ~~property;~~]

11 (1) [~~(2)~~] neighborhood organization; and

12 (2) [~~(3)~~] members of the task force created by council on February 16, 2006
13 to consider city code amendments [~~amendment~~] relating to certain
14 residential uses and construction and remodeling within certain
15 residential districts.

16 (F) The council shall consider a waiver application not earlier than the 10th day
17 after the date notice is mailed under Subsection (E).

18 **PART 7. EXPIRATION.**

19 This ordinance expires June 6, 2006 at 11:59 p.m., but the expiration date may be
20 extended by council.

21 **PART 8. REPEAL.**

22 Ordinance No.200060216-043 is repealed, except that Part 4 (*Waiver*) is continued
23 in effect and applies to a waiver filed before (effective date of this ordinance).

24 **PART 9 [8]. SEVERABILITY.**

25 The provisions of this ordinance are severable. If a provision of this ordinance or
26 its applications to any person or circumstances is held invalid, the invalidity does not
27 affect other provisions or applications of this ordinance.

1 **PART 10 [9]. EFFECTIVE DATE.**

2 This ordinance takes effect on _____, 2006.

3 **PASSED AND APPROVED**

4
5
6 _____, 2006

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7
8 _____
9 Will Wynn
Mayor

10
11
12 **APPROVED:** _____
13 David Allan Smith
14 City Attorney

15
16 **ATTEST:** _____
17 Shirley A. Gentry
City Clerk

Draft