

ORDINANCE NO.

AN ORDINANCE ESTABLISHING DEVELOPMENT REGULATIONS APPLICABLE TO CERTAIN SINGLE-FAMILY RESIDENTIAL AND DUPLEX STRUCTURES; ESTABLISHING A WAIVER PROCESS; AND PROVIDING AN EXPIRATION DATE.

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 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 includes a second or third story covered porch and 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.
- (6) SINGLE-FAMILY STRUCTURE means a structure used for one of the following uses, as defined in Title 25 (*Land Development*) of the City Code:
 - (a) single-family residential use;
 - (b) small lot single-family residential use;

1 (c) urban home special use; and

2 (d) cottage special use.

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

4 **PART 3. APPLICABILITY.**

5 (A) Except as provided in Subsection (B), this ordinance applies to a principal
6 single-family or duplex structure located:

7 (1) in a subdivision within the City limits for which the original final plat
8 was approved before March 7, 1974; or

9 (2) on a tract that may legally be developed without being platted.

10 (B) This ordinance does not apply to:

11 (1) an application for a building permit to perform building, electrical,
12 plumbing, mechanical, sidewalk or driveway repairs or to other work
13 that does not increase the size of the structure; or

14 (2) an application for a building permit, demolition permit, relocation
15 permit, or remodel permit for a structure that was filed before (effective
16 date of ordinance).

17 **PART 4. SIZE LIMITATIONS.**

18 (A) An application for a demolition or relocation permit for a principal structure
19 must be filed concurrently with an application for a permit described in
20 Subsection (B) or (C).

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

24 (1) 0.4 to 1 floor-to-area ratio;

25 (2) 2,500 square feet; or

26 (3) 20 percent more square feet than the existing or pre-existing structure.

27 (C) For a remodel permit to increase the size of a principal structure, the principal
28 structure's size after the remodel is limited to the greater of the following:

29 (1) 0.4 to 1 floor-to-area ratio;

1 (2) 2,500 square feet; or

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

4 **PART 5. FRONT SETBACKS.**

5 (A) A front setback prescribed by a neighborhood conservation combining district
6 supersedes this part to the extent of conflict.

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

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

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

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

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

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

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

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

21 (1) If the lot on the side of the corner lot is legally developed, the minimum
22 front yard setback of the corner lot is equal to the setback of the
23 principal structure on the side lot.

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

27 **PART 6. WAIVER.**

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

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

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

3 (b) the applicant is proposing to mitigate the effect of the
4 redevelopment by providing adequate safeguards which the Council
5 finds would adequately protect the health, safety and welfare of the
6 public;

7 (2) a development agreement permits the activity;

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

12 (4) the applicant is providing appropriate drainage facilities at the
13 applicant's cost.

14 (B) The applicant for a waiver must prove all facts necessary to satisfy the criteria
15 in Subsection (A).

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

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

19 (2) the address and legal description of the property;

20 (3) evidence to support the criteria in Subsection (A); and

21 (4) other information that the director may reasonably require to evaluate
22 the waiver application.

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

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

27 (1) notice owner of real property located within 300 feet of the subject
28 property;

29 (2) neighborhood organization; and

