

**ORDINANCE NO. 20070215-071**

**AN ORDINANCE AMENDING CHAPTER 25-2, SUBCHAPTER E, SECTION 4.3 OF THE CITY CODE RELATING TO VERTICAL MIXED USE BUILDINGS; AND ESTABLISHING REGULATIONS RELATING TO EARLY OPT-IN/OPT-OUT DETERMINATIONS FOR VERTICAL MIXED USE BUILDINGS.**

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

**PART 1.** Chapter 25-2, Subchapter E, Section 4.3.2 (*Where Allowed*) of the City Code is amended to amend Subsection A and add new Subsection C to read as follows:

A. A VMU building is allowed in the following zoning districts:

1. Mixed use (MU) combining district; and
2. Vertical mixed use (VMU) overlay district, subject to the limitations of Section 4.3.2.C.

C. This subsection applies to property in a VMU overlay district that is used exclusively for residential use and that is not designated as a MU combining district. A VMU building is allowed only:

1. through the opt-in process described in Section 4.3.5.C.5; or
2. through the conditional use permit process.

**PART 2.** Chapter 25-2, Subchapter E, Subsection 4.3.5.C (*Types of Opt-in/Opt-out Applications*) of the City Code is amended to add new Paragraphs 5 and 6 to read as follows:

**5. VMU Overlay District: Residential Opt-in**

A neighborhood that desires to allow VMU buildings within its boundaries on property in a VMU overlay district that is used exclusively for residential use and that is not designated as a MU combining district may submit an application to allow the development. The application shall specify the properties on which the neighborhood wishes to allow VMU buildings, whether ground-floor commercial listed in Section 4.3.3.C.2 should be allowed, and whether the dimensional and parking standards of Section 4.3.3.E.2 and 3 should apply.

## 6. Removal from the VMU Overlay District

A neighborhood may request that the Council amend the boundaries of the VMU overlay district to remove a property from the overlay district.

**PART 3.** This part establishes the regulations for early opt-in/opt-out determinations.

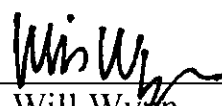

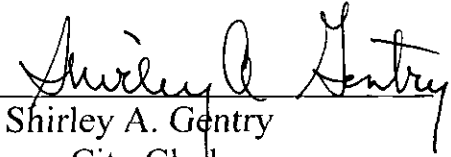
- (A) A person may, in accordance with this part, request that the council make the determination required under Chapter 25-2, Subchapter E, Section 4.3.5 (*Individual Neighborhood Consideration of VMU Requirements ("Opt-in/Opt-out Process")*) of the City Code before the completion of the opt-in/opt-out process described in that section.
- (B) The council may adopt an opt-in/opt-out determination by zoning or rezoning the applicable property after planning commission review.
- (C) A person may request an early determination only if the person has filed:
  - (1) development assessment site plan pre-application for a proposed VMU building; or
  - (2) an application for an approval of a zoning change, site plan, or building permit for a proposed VMU building.
- (D) To request an early determination, a person must:
  - (1) file an application for zoning or rezoning requesting an early determination and expedited review with the director of the Neighborhood Planning and Zoning Department on a form provided by the director; or
  - (2) if the property is the subject of a pending zoning or rezoning case, amend the zoning application to include a request for an early determination.
- (E) The applicant shall seek a recommendation for an early opt-in/opt out determination from the appropriate neighborhood group identified in Chapter 25-2, Subchapter E, Section 4.3.5.B.1 (*Initiation*).
- (F) A request made when a zoning or rezoning case is pending before the council shall be sent to the planning commission for a recommendation.
- (G) A public hearing before the planning commission shall be scheduled for the first available planning commission agenda after a request is received, but not less than 30 days after the notice of hearing is issued. A notice issued for a

hearing on a request made under this part shall include the dates for both planning commission and council consideration.

- (H) An early determination is not available after completion of the opt-in/opt-out process described in Chapter 25-2, Subchapter E, Section 4.3.5 (*Individual Neighborhood Consideration of VMU Requirements ("Opt-in/Opt-out Process")*).

**PART 4.** This ordinance takes effect on February 26, 2007.

**PASSED AND APPROVED**

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February 15	§	
, 2007		Will Wynn
		Mayor
<b>APPROVED:</b>		<b>ATTEST:</b> 
	David Allan Smith	Shirley A. Gentry
	City Attorney	City Clerk