

ORDINANCE NO. _____

AN ORDINANCE AMENDING CITY CODE SECTION 25-2-773 RELATING TO DUPLEX HEIGHT REQUIREMENTS; AMENDING CITY CODE SECTION 25-2-1051 RELATING TO DESIGN STANDARDS AND MIXED USE; AMENDING CITY CODE SECTION 25-2-1406 RELATING TO NEIGHBORHOOD PLAN COMBINING DISTRICTS; AND AMENDING CITY CODE CHAPTER 25-2, SUBCHATER F RELATING TO RESIDENTIAL DESIGN AND COMPATABILITY.

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

PART 1. Subsection (B) of City Code Section 25-2-773 (*Duplex Residential Use*) is amended to read:

§ 25-2-773 DUPLEX RESIDENTIAL USE.

(B) For a duplex residential use:

- (1) minimum lot area is 7,000 square feet;
- (2) minimum lot width is 50 feet;
- (3) maximum building cover is 40 percent;
- (4) maximum impervious cover is 45 percent; and
- (5) maximum building height is the lesser of:
 - (a) 30 feet; or
 - (b) two stories, except that an attic or basement does not count as a story for purposes of this subsection if it satisfies the requirements for an exemption from gross floor area under Subsections 3.3.2 and 3.4.6 of Subchapter F (*Residential Design and Compatibility Standards*).

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PART 2. Subsection (A) of City Code Section 25-2-1051 (*Applicability*) is amended to read:

§ 25-2-1051 APPLICABILITY.

(A) Except as provided in Section 25-2-1052 (*Exceptions*) or another specific provision of this title, this article applies to the following uses:

(1) A ~~(a)~~ use in a townhouse and condominium residence (SF-6) or less restrictive zoning district and to a civic use described in Subsection (B) that is located on property:

(a)~~(1)~~ across the street from or adjoining property:

(i)~~(a)~~ in an urban family residence (SF-5) or more restrictive zoning district;

(ii)~~(b)~~ on which a use permitted in an SF-5 or more restrictive zoning district is located, other than a dwelling permitted by Section 25-2-894 (*Accessory Uses For A Principal Commercial Use*); or

(iii)~~(c)~~ in a traditional neighborhood (TN) zoning district; or

(b)~~(2)~~ located 540 feet or less from property in:

(i)~~(a)~~ an SF-5 or more restrictive zoning district;

(ii)~~(b)~~ a TN district; or

(iii)~~(a)~~ a development reserve (DR) zoning district.

(2) A use listed in Subsections 1.2.2(K)-(Q) of Subchapter F (*Residential Design and Compatibility Standards*), if the owner has agreed to comply with the requirements of this article as provided for by Subsection 1.3.3 of Subchapter F.

PART 3. City Code Section 25-2-1406 (*Ordinance Requirements*) is amended to read:

§ 25-2-1406 ORDINANCE REQUIREMENTS.

An ordinance zoning or rezoning property as a NP combining district:

- (1) must prescribe the special uses described in Section 25-2-1403 (*Special Uses*) that are permitted in the district;
- (2) must describe the location of each residential infill special use, neighborhood urban center special use, or neighborhood mixed use building special use, if any;
- (3) may restrict the time of day during which a business in a neighborhood mixed use building special use may be open to the public;
- (4) may restrict a corner store special use, cottage special use, secondary apartment special use, or urban home special use, if any, to a designated portion of the district;
- (5) for a single-family residential use or a secondary apartment special use on an existing legal lot:
 - (a) may reduce the required minimum lot area to 2,500 square feet;
 - (b) may reduce the required minimum lot width to 25 feet; and
 - (c) for a lot with an area of 4,000 square feet or less, may increase the maximum impervious coverage to 65 percent;
- (6) may apply the requirements of Section 25-2-1602 (*Front Porch Setback*), Section 25-2-1603 (*Impervious Cover and Parking Placement Requirements*), or Section 25-2-1604 (*Garage Placement*) to the district or a designated portion of the district;
- (7) may restrict front yard parking by including all or a portion of the district in the restricted parking area map described in Section 12-5-29 (*Front or Side Yard Parking*); and
- (8) may apply the requirements of Section 25-2-812(N) (*Mobile Food Establishments*) to the district or a designated portion of the district.

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(9) may modify the following requirements of Subchapter F (*Residential Design And Compatibility Standards*) for the district or a designated portion of the district:

- (a) the maximum floor-to-area ratio and maximum square footage of gross floor area prescribed by Subchapter F (*Residential Design And Compatibility Standards*);
- b) the maximum linear feet of gables or dormers protruding from the setback plane;
- (c) the height of the side and rear setback planes; and
- (d) the minimum front yard setback requirement.

PART 4. Subsection 1.2.2 of Section 1.2 (*Applicability*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsections I and J and to add new Subsections (K)-(Q) to read:

1.2. APPLICABILITY

1.2.2. Used for a:

- A. Bed and breakfast (group 1) residential use;
- B. Bed and breakfast (group 2) residential use;
- C. Cottage special use;
- D. Duplex residential use;
- E. Secondary apartment special use;
- F. Single-family attached residential use;
- G. Single-family residential use;
- H. Small lot single-family residential use;
- I. Two-family residential use; [øf]

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J. Urban home special use;[-]

K. Club or lodge;

L. Daycare services (general and limited);

M. Family homes;

N. Group homes (general and limited);

O. Condo residential;

P. Retirement housing (small and large site); or

Q. Townhouse residential.

PART 5. Subsections 1.3.1 and 1.3.3 of Section 1.3 (*Exceptions*) of City Code Chapter 25-2, Subchapter F are amended to read:

1.3. Exceptions

1.3.1. This Subchapter does not apply to a lot zoned as a single-family residence small lot (SF-4A) district unless the lot is adjacent to property zoned as a single-family residence standard lot (SF-1), single-family residence standard lot (SF-2) district, or family residence (SF-3) district.

1.3.3. This Subchapter does not apply to uses listed in subsections 1.2.2(K)-(Q) of Section 1.2 if an applicant has agreed, in a manner prescribed by the director, to comply with the compatibility requirements in Chapter 25-2, Article 10 (*Compatibility Standards*). ~~[The side wall articulation requirement does not apply to new construction that is less than 2,000 square feet in gross floor area and that is less than 32 feet in height.]~~

PART 6. Subsection of Section 1.4.1 (*Conflicting Provisions*) of City Code Chapter 25-2, Subchapter F is amended to read:

1.4. Conflicting Provisions

1.4.1. To the extent of conflict, this Subchapter supersedes:

A. Section 25-1-21 (Definitions);

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B.[A] Section 25-2-492 (Site Development Regulations);

C.[B] Section 25-2-555 (Family Residence (SF-3) District Regulations);

D.[C] Section 25-2-773 (Duplex Residential Use);

E.[D] Section 25-2-774 (Two-Family Residential Use);

F.[E] Section 25-2-778 (Front Yard Setback for Certain Residential Uses);

G.[F] Section 25-2-779 (Small Lot Single-Family Residential Uses); and

H.[G] Section 25-4-232 (Small Lot Subdivisions).

PART 7. Section 2.1 (*Maximum Development Permitted*) of City Code Chapter 25-2, Subchapter F is amended to read:

2.1. MAXIMUM DEVELOPMENT PERMITTED

The maximum amount of development permitted on a property subject to this Subchapter is limited to the greater of 0.4 to 1.0 floor-to-area ratio or 2,300 square feet of gross floor area, as defined in Section 3.3. Floor-to-area ratio shall be measured using gross floor area as defined in Section 3.3, except that the lot area of a flag lot is calculated consistent with the requirements of Section 25-1-22.

PART 8. Subsection B of Section 2.3 (*Average Front Yard Setback*) of City Code Chapter 25-2, Subchapter F is amended to read:

2.3. Average Front Yard Setback

B. Average Front Yard Setback. The following rules apply for purposes of the setback calculation required by paragraph A.2:

1. A front yard setback is the distance between the front lot line and the closest front exterior wall or building façade of the principal residential structure located on the lot. [An average front yard setback is determined based on the setbacks of each principal residential structure that is built within 50 feet of its front lot line.]

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2. Except as provided in paragraph 3[-], average front yard setback is determined using the front yard setback of the four principal residential structures that are: (a) built within fifty feet of the front lot line; and (b) closest to, and [the subject property] on the same side of the block, as the property subject to the setback required by this section [shall be used in the calculation of average front yard setback. If there are less than four structures on the same side of the block, the lesser number of structures is used in the calculation].
3. If less than four structures satisfy the criteria in paragraph B.2, average front yard setback is calculated using the number of existing residential structures on the same side of the street block as the property subject to the setback required by this section. If there are no structures on the same side of the block, average front yard setback is calculated using the front yard setbacks of the four structures on the opposite side of the block that are closest to the [subject] property subject to the setback required by this section [and across the street are used in the calculation]. If there are less than four structures on the opposite side of the block [across the street], the lesser number of structures is used in the calculation. See Figure 1.

PART 9. Section 2.4 (*Rear Yard Setback*) of City Code Chapter 25-2, Subchapter F is amended to read:

2.4. REAR YARD SETBACK.

The principal structure shall comply with the rear yard setback prescribed by other provisions of this Code. All other structures shall comply with the rear yard setback provisions of this Code, but the minimum rear yard setback of a second dwelling unit, excluding two-story accessory structures, may be reduced to five feet if the rear lot line is adjacent to an alley. See Figure 2.

PART 10. Subsections A, B, and D of Section 2.6 (*Setback Planes*) of City Code Chapter 25-2, Subchapter F are to amend to read:

2.6 SETBACK PLANES

A. Side Setback Plane

Except as provided in subsection ~~[B-]~~ D, an inwardly sloping 45-degree angle side setback plane begins at a horizontal line 15 feet directly above the side property line. The 15-foot height of the

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horizontal line is established for 40-foot deep portions of the lot beginning at the building line and extending to the rear of the lot, except that the last portion at the rear of the lot may be less than 40 feet deep. See Figures 3 through 5.

1. For the first portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines, the building line, and a line 40 feet from and parallel to the building line.
2. For successive portions other than the last portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines and the appropriate two lines that are 40 feet apart and parallel to the building line.
3. For the last portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines, the appropriate line parallel to the building line, and the rear lot line.

B. Rear Setback Plane

Except as provided in subsection D, an [A~~n~~] inwardly sloping 45-degree angle rear setback plane begins at a horizontal line directly above the rear property line at the same elevation as the horizontal line for the last portion of the side setback plane established in paragraph A.3. See Figures 6 through 9.

D. Side and Rear Setback Plane Exceptions for Existing One-Story Buildings. ~~[This subsection applies to a one-story building that was originally constructed or received a building permit for the original construction before October 1, 2006, and that is remodeled to add a second story.]~~

1. Except as provided below in paragraph 3, an applicant proposing to add a second story [This subsection applies] to a one-story building may choose either of the following side setback planes for the portion of the project that is within the building footprint [was] originally constructed, or permitted for [received a building permit for the] original construction, before

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October 1, 2006[;] ~~[and that is remodeled to add a second story.]~~

a. The side setback plane required under subsection A.

b. ~~[1. For the portion of the construction that is within the footprint of the building that was originally constructed or received a building permit before October 1, 2006,~~ The inwardly sloping 45-degree angle side setback plane that begins at a horizontal line directly above the outermost side wall at a height ~~[that is]~~ equal to the height of the first floor wall plate that was originally constructed or received a building permit before October 1, 2006, plus 10 and one-half ~~[ten]~~ feet. See Figure 12.

2. Except as provided below in paragraph 3, an applicant proposing to add a second story to a one-story building may choose either of the following rear setback planes for the portion of the project that is within the building footprint originally constructed, or permitted for original construction, before October 1, 2006:

a. The rear setback plane required under subsection B.

b. An inwardly sloping 45-degree angle rear setback plane that begins at a horizontal line directly above the rear property line at a height equal to the height of the first floor wall plate that was originally constructed or received a building permit before October 1, 2006, plus 10 and one-half feet.

3. The side setback plane required under subsection A, and the rear setback plane required under subsection B, apply to:

a. any ~~[For the]~~ portion of the proposed construction that is outside of the building footprint originally constructed, or ~~[received a building permit]~~ permitted for construction, before October 1, 2006~~[, the side setback plane prescribed by subsection A. above applies.]; and~~

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- b. the entire project, if any portion of the proposed construction requires the removal or demolition of exterior walls.

PART 11. Section 2.7 (*Side Wall Articulation*) of City Code Chapter 25-2, Subchapter F is amended to add new Subsections 2.7.1 and 2.7.2 to read:

2.7. SIDE WALL ARTICULATION.

2.7.1. Except as provided in subsection 2.7.2, if a [A] side wall of a building [that] is more than 15 feet high and is an average distance of 9 [45] feet or less from an interior lot line, the sidewall may not extend in an unbroken plane for more than 36 [32] feet along a side lot line without a sidewall articulation that meets the requirements of this section.

A. To break the plane, a sidewall articulation must:

1. be perpendicular to the side property line, at least [wall articulation of not less than] four feet deep, and extend [for a distance] along the side property line for at least [of not less than] 10 feet, as shown in [is required. See] Figures 18 through 20; [-]
2. extend the entire height of the first floor of an addition to, or remodel of, an existing one-story building;
3. extend the entire height of the second story of an addition to, or remodel of, a two or more story building;
4. the height of the top floor of a newly constructed building; and
5. extend evenly upward for its entire height.

B. A sidewall articulation cannot:

- a. create patios or decks or be screened from view; or
- b. serve as an eave or gutter.

C. For purposes of subsection 2.7.1, wall height excludes side gables and is measured from the average highest point of natural grade within

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each 40' portion of the lot used in calculating setback planes under Section 2.6.

2.7.2 The requirements of this section do not apply to:

- A. Any side of a structure that is adjacent to a commercial use, unless the commercial use is occupying a residential structure.
- B. An addition to or remodel of an existing principal structure, or the construction of a new principal structure, provided that the resulting structure is less than 2,000 square feet in net building coverage and less than or equal to 32 feet in height.
- C. An addition to or remodel of an existing second structure, or the construction of a new second structure, provided that the principal structure is exempt under subsection 2.7.2.B and the resulting second structure:
 - i. does not exceed 550 square feet;
 - ii. does not exceed the maximum height allowed in the base zoning district; and
 - iii. is either detached from the principal structure or connected by a covered breezeway that is open on all sides, with a walkway of no more than six (6) feet in width that is covered by roof of no more than eight (8) feet in width.
- D. The addition of a second story to an existing one-story structure if the addition is directly above a portion of the existing one-story structure that was originally constructed, or received a permit for construction, before October 1, 2006.
- E. An extension of the second floor of an existing two-story structure, provided that the building footprint of the structure is not increased.

PART 12. Section 3.3 (*Gross Floor Area*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsections 3.3.1 and 3.3.2, and to add a new Subsection 3.3.3, to read:

3.3. GROSS FLOOR AREA

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COA Law Department
Responsible Att'y: BDL

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3.3.1. In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under sections 3.3.2 or 3.3.3. [has the meaning assigned by Section 25-1-21(Definitions), with the following modifications:

3.3.1. ~~The following shall be included in the calculation of gross floor area:~~

A. ~~The portion of a second or third story of a building that is covered by a roof, including a porch, portico, breezeway, passageway, or corridor;~~

B. ~~A mezzanine or loft; and]~~

3.3.2. Subject to the limitations in subsection 3.3.2.C of this section, the following parking areas and structures are exempt from gross floor area for purposes of this Subchapter [C. The covered portion of a parking area, except for]:

A.~~[1.]~~ Up to 450 square feet of:

1.~~[a.]~~ A detached rear parking area that is separated from the principal structure by not less than 10 feet; ~~[or]~~

2. A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either:

a. detached from the principal structure; or

b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width.

c. ~~[b.]~~ A parking area that is open on two or more sides, if:

i. it does not have habitable space above it; and

ii. the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport.

B.~~[2.]~~ Up to 200 square feet of:

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1. an attached parking area if it used to meet the minimum parking requirement;[-]

2. a garage that is less than 10 feet from the rear of the principal structure, provided that the garage is either:

a. detached from the principal structure; or

b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width.

C. An applicant may receive only one 450-square foot exemption per building site under subsection 3.3.2.A of this section. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same building site, but only for an attached parking area used to meet minimum parking requirements as provided in subsection 3.3.2.B.

3.3.3.[3.3.2.] Porches, basements, and attics that meet the [The] following requirements shall be excluded from the calculation of gross floor area:

A. A ground floor porch, including a screened porch, provided that:

1. the porch is not accessible by automobile and is not connected to a driveway; and

2. the exemption may not exceed 200 square feet if a porch has habitable space or a balcony above it.

B. A habitable portion of a building that is below grade if:

1. The habitable portion [It] does not extend beyond the first-story footprint[;] and is:

a. Below natural or finished grade, whichever is lower; and

b. Surrounded by natural grade for at least 50% of its perimeter, if the habitable portion is required to be below natural grade under paragraph 1.a above.

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2. The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines[~~;~~and].

C. A habitable portion of an attic, if:

1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;
2. It is fully contained within the roof structure;
3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
6. Fifty percent or more of the area has a ceiling height of seven feet or less.

PART 13. Section 3.4 (*Height*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsection 3.4.1, and to add new Subsections 3.4.6, 3.4.7, and 3.4.8, to read as follows:

3.4. HEIGHT

For purposes of this Subchapter, the HEIGHT of a building or setback plane shall be measured as follows:

- 3.4.1. Height shall be measured vertically from the average of the highest and lowest grades adjacent to the building to:
 - A. For a flat roof, the highest point of the coping;
 - B. For a mansard roof, the deck line;
 - C. For a pitched or hip roof, the gabled roof with the highest average height [~~the average height of the highest gable~~]; or
 - D. For other roof styles, the highest point of the building.

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3.4.6. The habitable portion of a basement that is below natural grade and the habitable portion of an attic does not count toward the number of stories for purposes of Section 25-2-773(B)(5) (*Duplex Residential Use*) if the area satisfies the requirements for an exemption from gross floor area under subsections 3.3.2.B-C of this Subchapter.

3.4.7 The height of a sidewall, as determined under Section 2.7, is measured from the lower of natural or finished grade to the first floor wall plate.

3.4.8 For purposes of this Subchapter, wall plate means the lowest point of the existing first floor ceiling framing that intersects the exterior wall.

PART 14. This ordinance takes effect on _____, 2008.

PASSED AND APPROVED

_____, 2008 §
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 §
_____, 2008 §
Will Wynn
Mayor

APPROVED: _____ **ATTEST:** _____
David Allan Smith Shirley A. Gentry
City Attorney City Clerk