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06-24-04

ORDINANCE NO.

AN ORDINANCE ESTABLISHING INTERIM DEVELOPMENT REGULATIONS, INCLUDING A MORATORIUM, PROHIBITING THE ISSUANCE OF A BUILDING PERMIT FOR THE CONSTRUCTION OR REMODELING OF A TWO-FAMILY RESIDENTIAL USE OR SECONDARY APARTMENT SPECIAL USE OR THE REMODELING OF AN EXISTING STRUCTURE TO CREATE A TWO-FAMILY RESIDENTIAL USE OR A SECONDARY APARTMENT SPECIAL USE UNTIL SEPTEMBER 26, 2004; AND DECLARING AN EMERGENCY.

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

PART 1. FINDINGS.

The Council finds:

- (A) City regulations allow a two-family residential use and secondary apartment special use to exist in the same zoning district with and in close proximity to a single-family residential use.
- (B) Citizens have expressed a concern that under current City regulations a two-family residential use and secondary apartment special use are often high occupancy uses that are not compatible with single-family residential development.
- (C) The Council desires to study the land use regulations that are applicable to a two-family residential use and secondary apartment special use.
- (D) To protect the general health, safety and welfare of its citizens and to preserve the nature and character of single-family residential areas in the City, it is necessary to prohibit the development of additional two-family residential uses and secondary apartment special uses in single-family residential areas and to maintain the status quo until completion of a study and staff recommendations regarding appropriate development regulations for a two-family residential use and a secondary apartment special use.

PART 2. DEFINITIONS.

In this ordinance:

- 1 (1) DIRECTOR means the Director of the Watershed Protection and
2 Development Review Department.
- 3 (2) HIGH OCCUPANCY USE is a two-family residential use or a
4 secondary apartment special use in which:
- 5 (a) the rear unit is greater than two stories or 30 feet in height; and
6 (b) the lot on which the use is located has more than:
- 7 (i) 45 percent total impervious cover; and
8 (ii) 40 percent building coverage.

9 **PART 3. DEVELOPMENT LIMITATIONS.**

- 10 (A) Except as otherwise provided in this ordinance, a City official may not
11 approve a building permit to:
- 12 (1) construct a new high occupancy use;
13 (2) remodel an existing structure to create a high occupancy use; or
14 (3) remodel an existing high occupancy use to increase the:
- 15 (a) height of the rear unit; or
16 (b) impervious cover or building coverage of the lot on which the high
17 occupancy use is located.
- 18 (B) This section applies to a rear unit of a secondary apartment special use or a
19 two-family residential use.
- 20 (1) For a one story unit, the maximum square footage is 850 square feet.
21 (2) For a two story unit:
- 22 (a) the maximum building footprint of the ground floor is 425 square
23 feet; and
24 (b) the maximum square footage of the second story is 425 square feet.
- 25 (C) A person may file an application for a waiver and building permit to construct
26 high occupancy use. The building permit application expires if a waiver is not
27 granted by Council under Part 4 of this ordinance.
- 28 (D) Subsections (A) and (B) do not apply to:

- (1) an application for a building permit to perform building, electrical, plumbing, mechanical, sidewalk, or driveway repairs; or
- (2) an application for a building permit that was filed before the effective date of this ordinance.

PART 4. WAIVER.

- (A) The Council may waive by resolution a development limitation in Subsection (A) of Part 4 of this ordinance if the Council determines that:
 - (1) the development limitation imposes undue hardship on the applicant; and
 - (2) the development proposed by the applicant will not adversely affect the public health, safety, and welfare.
- (B) The applicant for a waiver must prove all facts necessary to satisfy the criteria in Subsection (A).
- (C) An application for a waiver must be filed with the director on a form provided by the director and must include the following information:
 - (1) the name and address of the applicant;
 - (2) the address and legal description of the property;
 - (3) evidence to support the criteria in Subsection (A); and
 - (4) other information that the director may reasonably require to evaluate the waiver application.
- (D) The director shall make a recommendation to the Council on each application for a waiver. Before acting on a waiver, the Council shall hold a public hearing and provide notice of the public hearing under Section 25-1-132(B)(2) (*Notice of Public Hearing*) of the City Code.

PART 5. EXPIRATION.

This ordinance expires at 12:01 a.m. on September 27, 2004.

PART 6. EMERGENCY.

The Council finds that the continued development of high occupancy uses in proximity to single-family residential development would impede the Council's efforts to examine land use issues concerning high occupancy uses and that this constitutes an emergency.

1 Because of the emergency, this ordinance takes effect immediately on its passage for the
2 immediate preservation of the public peace, health, and safety.
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4 **PART 7.** This ordinance takes effect on _____, 2004.

5 **PASSED AND APPROVED**

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9 _____, 2004

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Will Wynn
Mayor

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14 **APPROVED:** _____
15 David Allan Smith
16 City Attorney
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ATTEST: _____
Shirley A. Brown
City Clerk