

ORDINANCE NO. 20060309-058

AN ORDINANCE ESTABLISHING DEVELOPMENT REGULATIONS APPLICABLE TO CERTAIN SINGLE-FAMILY, SINGLE-FAMILY ATTACHED, TWO-FAMILY, SECONDARY APARTMENT, AND DUPLEX STRUCTURES; ESTABLISHING A WAIVER PROCESS; PROVIDING AN EXPIRATION DATE; REPEALING ORDINANCE NO. 20060216-043; AND DECLARING AN EMERGENCY.

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 porch, portico, breezeway, passageway, or corridor; and
 - (b) excludes a habitable portion of a structure that is below grade if the finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front setback line and the side property lines.
- (5) SECONDARY APARTMENT STRUCTURE means a structure containing a dwelling unit on a lot that is used for a secondary apartment

special use, as defined in Title 25 (*Land Development*) of the City Code, and includes the principal structure.

- (6) **SINGLE-FAMILY ATTACHED STRUCTURE** means a structure containing a dwelling unit used for a single-family attached residential use, as defined in Title 25 (*Land Development*) of the City Code.
- (7) **SINGLE-FAMILY STRUCTURE** means a structure containing a dwelling unit 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;
 - (c) urban home special use; and
 - (d) cottage special use.
- (8) **SQUARE FEET** means square feet of gross floor area.
- (9) **TWO-FAMILY STRUCTURE** means a structure containing a dwelling unit used for a two-family residential use, as defined in Title 25 (*Land Development*) of the City Code.

PART 3. APPLICABILITY.

- (A) Except as provided in Subsection (B), this ordinance applies to a single-family, single-family attached, two-family, secondary apartment, or duplex structure located:
 - (1) in a subdivision within the City limits for which the original final plat was approved before March 7, 1974; or
 - (2) on a tract that may legally be developed without being platted.
- (B) This ordinance does not apply to:
 - (1) an application for a building permit to perform building, electrical, plumbing, mechanical, sidewalk or driveway repairs or to other work that does not increase the size of the structure; or
 - (2) an application for a building permit, demolition permit, relocation permit, or remodel permit for a structure that was filed before March 9, 2006.

PART 4. SIZE LIMITATIONS; DEMOLITION OR RELOCATION PERMIT REQUIRED.

- (A) An application for a demolition or relocation permit for a structure must be filed concurrently with an application for a permit described in Subsection (C) or (D).
- (B) For a building permit for a new structure on a vacant lot, the new structure's size is limited to the greater of:
 - (1) 0.4 to 1 floor-to-area ratio; or
 - (2) 2,500 square feet.
- (C) For a building permit for a new structure on a lot where, before March 9, 2006, a structure has been or will be demolished or relocated, the new structure's size is limited to the greater of:
 - (1) 0.4 to 1 floor-to-area ratio;
 - (2) 2,500 square feet; or
 - (3) 20 percent more square feet than the existing or pre-existing structure.
- (D) For a remodel permit to increase the size of a structure, the structure's size after the remodel is limited to the greater of:
 - (1) 0.4 to 1 floor-to-area ratio;
 - (2) 2,500 square feet; or
 - (3) the existing size plus 1000 square feet, if the applicant has been granted a homestead exemption for the structure.
- (E) For a two-family or secondary apartment structure, the limitations of this section are applied to the combined square footage of the principal structure and the structure containing the second dwelling unit or secondary apartment.

PART 5. SETBACKS.

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

- (B) Only a lot with a single-family, single-family attached, two-family, secondary apartment, or duplex structure is considered in determining a setback under Subsection (D) or (E).
- (C) A portion of the principal structure must be located at or within the maximum setback.
- (D) This subsection prescribes minimum and maximum front yard setbacks.

 - (1) For a lot on a block face that is undeveloped for a use described in Subsection (B):

 - (a) the minimum front yard setback is prescribed by Section 25-2-492(C) (*Site Development Regulations*) of the City Code; and
 - (b) there is no maximum front yard setback.
 - (2) For a lot on a block face on which one lot is developed for a use described in Subsection (B):

 - (a) the minimum front yard setback is the same as the minimum front yard setback of the principal structure on the developed lot; and
 - (b) the maximum front yard setback is equal to the minimum front yard setback of the principal structure on the developed lot plus ten percent of the distance of that setback.
 - (3) Except as provided in Paragraph (6), for a lot on a block face on which two lots are developed for a use described in Subsection (B):

 - (a) the minimum front yard setback is equal to the average of the minimum front yard setbacks of the principal structures on the two lots minus ten percent of the distance of that average; and
 - (b) the maximum front yard setback is equal to the average of the minimum front yard setbacks of the principal structures on the two lots plus ten percent of the distance of that average.
 - (4) Except as provided in Paragraph (6), for a lot on a block face on which three lots are developed for a use described in Subsection (B):

 - (a) the lot with a principal structure closest to the street is disregarded, and the lot with a principal structure farthest from the street is disregarded;

- (b) the minimum front yard setback is equal to the minimum front yard setback of the principal structure on the remaining lot minus ten percent of the distance of that setback; and
 - (c) the maximum front yard setback is equal to the minimum front yard setback of the principal structure on the remaining lot plus ten percent of the distance of that setback.
- (5) Except as provided in Paragraph (6), for a lot on a block face on which four or more lots are developed for a use described in Subsection (B):
 - (a) the lot with a principal structure closest to the street is disregarded, and the lot with a principal structure farthest from the street is disregarded;
 - (b) the minimum front yard setback is equal to the average of the minimum front yard setbacks of the principal structures on the remaining lots minus ten percent of the distance of that average; and
 - (c) the maximum front yard setback is equal to the average of the minimum front yard setbacks of the principal structures on the remaining lots plus ten percent of the distance of that average.
- (6) A minimum front yard setback may not be less than that of the lot with the principal structure closest to the street, and a maximum front yard setback may not be greater than that of the lot with the principal structure farthest from the street.
- (E) For a corner lot, this subsection prescribes minimum and maximum street side yard setbacks.
 - (1) Subsection (D) is applied to the block face on which the street side yard is located.
 - (2) The minimum street side yard setback is equal to the minimum front yard setback on that block face under Subsection (D).
 - (3) The maximum street side yard setback is equal to the maximum front yard setback on that block face under Subsection (D).

PART 6. WAIVER.

- (A) The Council may waive a regulation in Part 4 (*Size Limitation*) or Part 5 (*Setbacks*) if the Council determines that:

- (1) the regulation imposes undue hardship on the applicant, the development proposed by the applicant will not adversely affect the public health, safety and welfare, and waiving the regulation will not have a substantially adverse impact on neighboring properties; or
 - (2) a development agreement permits the activity.
- (B) The applicant for a waiver must:
 - (1) file for an appropriate permit under Part 4 (*Size Limitations*) or Part 5 (*Setbacks*); and
 - (2) 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.
- (E) The director shall:
 - (1) give notice of an application by posting one or more signs in accordance with Section 25-1-135 (*Posting Of Signs*) of the City Code; and
 - (2) not later than the third business day after a waiver application is filed, mail notice of the waiver application to the:
 - (a) applicable neighborhood organization; and
 - (b) members of the task force created by council on February 16, 2006 to consider city code amendments relating to certain residential uses and construction and remodeling within certain residential districts.
- (F) The council shall consider a waiver application not earlier than the 10th day after the date notice is mailed under Subsection (E).

PART 7. EXPIRATION.

This ordinance expires June 6, 2006 at 11:59 p.m., unless extended by council.

PART 8. REPEAL.

Ordinance No.200060216-043 is repealed, except that Part 4 (*Waiver*) is continued in effect and applies to a waiver application filed before March 9, 2006.

PART 9. SEVERABILITY.

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

PART 10. EMERGENCY DECLARED; EFFECTIVE DATE.

The council finds that the continued development of large single-family uses in areas of the City for which subdivisions were approved before March 7, 1974 or on lots that may be legally developed without platting would negatively affect property in the area, negatively affect the public health, safety, and welfare of the public, and impede the council's efforts to examine the effects of certain land uses on established City neighborhoods and the City's drainage infrastructure. The council further finds that this constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PASSED AND APPROVED

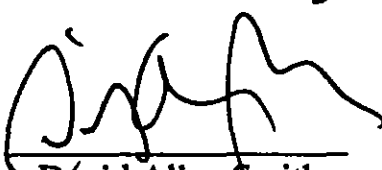
_____, March 9, 2006

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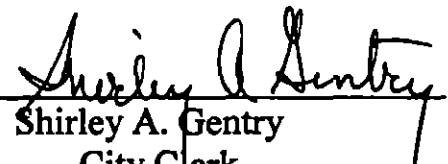
Will Wynn
Mayor

APPROVED:



David Allan Smith
City Attorney

ATTEST:



Shirley A. Gentry
City Clerk