

1ST READING WITH REVISIONS

#43
2-16-06

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING INTERIM DEVELOPMENT REGULATIONS APPLICABLE TO CERTAIN BUILDING, DEMOLITION, AND RELOCATION PERMITS FOR SINGLE-FAMILY RESIDENTIAL STRUCTURES IN AREAS OF THE CITY WITH INADEQUATE DRAINAGE INFRASTRUCTURE; AND DECLARING AN EMERGENCY.

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

PART 1. FINDINGS.

The Council finds that:

- (1) Protection of the character of older neighborhoods in the City of Austin is in the public interest.**
- (2) The character of an older neighborhood includes safe and adequate drainage facilities.**
- (3) The character of older neighborhoods includes appropriate scale and bulk of structures that may be different from what is appropriate in newer subdivisions that have modern infrastructure.**
- (4) The City first established drainage regulations to address fully developed conditions on March 7, 1974, with the adoption of Ordinance No. 740307-F. Subdivisions approved before March 7, 1974 were not required to construct facilities that took into account storm water flow increases resulting from future development.**
- (5) Storm drain systems in older subdivisions are currently operating near or beyond capacity. The remaining portion of the capacity, if any, in the drainage system in the older neighborhoods is committed to the redevelopment.**
- (6) Interim development regulations are needed to study the impact of redevelopment of older neighborhoods and the effect on the aging infrastructure.**

- 1 (7) The City has adopted a drainage utility fee to fund the construction of
2 drainage facilities. The revenue generated from the fee is not
3 sufficient to meet the identified need for drainage facilities. The City
4 desires to explore alternative methods, including land use regulations,
5 to address the drainage problem.
- 6 (8) The interim development regulations in this ordinance are limited to
7 areas of the City where the shortage of drainage facilities exists.
- 8 (9) Redevelopment of the area subject to this ordinance without
9 appropriate controls could result in conditions which would be
10 detrimental to the health, safety and welfare of the residents of the
11 City of Austin.
- 12 (10) Existing development ordinances and regulations and applicable laws
13 are inadequate to prevent redevelopment of duplex or single-family
14 uses from causing overcapacity of the drainage system because the
15 development will increase impervious cover and could overwhelm the
16 drainage infrastructure and be detrimental to the public health, safety
17 and welfare in the area covered by this ordinance.
- 18 (11) These interim development regulations achieve the objectives of
19 protecting the infrastructure by allowing redevelopment to the extent
20 appropriate for the existing infrastructure.
- 21 (12) The City of Austin is committed to investigating and determining
22 appropriate redevelopment regulations within the affected area by
23 June 6, 2006.

24 **PART 2. DEFINITIONS AND MEASUREMENTS.**

25 In this ordinance:

- 26 (1) **DIRECTOR** means the Director of the Watershed Protection and
27 Development Review Department.
- 28 (2) **DUPLEX STRUCTURE** means a structure used for a duplex
29 residential use, as defined in Title 25 (*Land Development*) of the
30 City Code.

1 (3) (2) SINGLE-FAMILY STRUCTURE means a structure used for one
2 of the following uses, as defined in Title 25 (*Land Development*)
3 of the City Code:

- 4 (a) single-family residential use;
- 5 (b) small lot single-family residential use;
- 6 (c) urban home special use; and
- 7 (d) cottage special use.

8 (4) (3) SQUARE FEET means square feet of "gross floor area", as
9 defined in Title 25 (*Land Development*) of the City Code.

10 **PART 3. DEVELOPMENT REGULATIONS.**

11 In a subdivision within the City limits for which the original final plat was
12 approved before March 7, 1974, or on a tract that may legally be developed without
13 being platted [~~is not required by law to be subdivided~~], applications for the following
14 types of permits for structures must comply with the following to be accepted for
15 filing:

- 16 (1) An application for a demolition or relocation permit for a duplex or
17 single-family structure must be filed concurrently with an application
18 for a permit described in Section (2) or (3).
- 19 (2) For a building permit for a new duplex or single-family structure on a
20 lot where a structure has been or will be demolished or relocated, the
21 new structure's size is limited to the greater of the following:
- 22 (a) 0.4 to 1 floor-to-area ratio;
- 23 (b) 2,500 square feet; or
- 24 (c) 20 percent more square feet than the existing or pre-existing
25 structure.
- 26 (3) For a remodel permit to increase the size of a duplex or single-family
27 structure, the structure's size after the remodel is limited to the greater
28 of the following:
- 29 (a) 0.4 to 1 floor-to-area ratio;

(b) 2,500 square feet; or

(c) the existing size plus 1000 square feet, if the applicant has been granted a homestead exemption for the duplex or single-family structure.

PART 4. WAIVER.

(1) The Council may waive [~~by resolution~~] a development regulation in Part 3 if the Council determines that:

(a) the regulation imposes undue hardship on the applicant; and

1. the development proposed by the applicant will not adversely affect the public health, safety and welfare; or
2. the applicant is proposing to mitigate the effect of the redevelopment by providing adequate safeguards which the Council finds would adequately protect the health, safety and welfare of the public;

(b) a development agreement permits the activity; [~~or~~]

(c) the applicant has a right acquired under Texas Local Government Chapter 245 (*Issuance of Local Permits*), or has a common law vested right that has been fully adjudicated by a court of competent jurisdiction; or [-]

(d) the applicant is providing appropriate drainage facilities at the applicant's cost.

(2) The applicant for a waiver must prove all facts necessary to satisfy the criteria in Section (1).

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

(a) the name and address of the applicant;

(b) the address and legal description of the property;

(c) evidence to support the criteria in Section (1); and

(d) other information that the director may reasonably require to evaluate the waiver application.

(4) 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.]~~

(5) The Council shall vote on whether to grant a waiver not later than the 10th day after the date of receiving the waiver application.

PART 5. NONAPPLICABILITY.

The prohibitions established in this ordinance do not apply to the following:

(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 a single-family residential structure; or

(2) an application for a building permit, demolition permit, relocation permit, or remodel permit ~~that was~~ filed before February 10, 2006.

PART 6. CITY MANAGER RECOMMENDATIONS.

The City Manager is directed to initiate the review and amendment of existing City Code provisions relating to single-family residential uses and to present Council with a recommendation of proposed amendments on or before May 7, 2006.

PART 7. EXPIRATION.

This ordinance expires June 6, 2006 at 11:59 p.m.

PART 8. 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.

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2 **PART 9. EMERGENCY DECLARED; EFFECTIVE DATE.**

3 The Council finds that the continued development of large single-family
4 uses in areas of the City for which subdivisions were approve before the City
5 required drainage facilities to account for new development would negatively
6 affect property in the area, overwhelm aging drainage infrastructure, negatively
7 affect the public health, safety and welfare of the public, and impede the Council's
8 efforts to examine the effect of certain land uses on the City's drainage
9 infrastructure. The Council further finds that this constitutes an emergency.
10 Because of the emergency, this ordinance takes effect immediately on its passage
11 for the immediate preservation of the public peace, health, and safety.
12

13 **PASSED AND APPROVED**

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17 _____, 2006

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Will Wynn
Mayor

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22 **APPROVED:**

David Allan Smith
City Attorney

ATTEST:

Shirley A. Gentry
City Clerk