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Austin neighborhoods.**

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June 24, 2016

Planning Commission of the City of Austin  
301 W. 2nd Street  
Austin, Texas 78701

RE: Carport Exemption and Floor-Area Ratios

Planning Commission members,

Friends of Austin Neighborhoods, in an effort to place importance on people over cars, calls for an increase in allowable floor-area ratio (FAR) equivalent to the current parking exemptions in order to remove the complicated parking exemptions section from Subchapter F known as the "McMansion Ordinance." This will benefit the review process, review staff, and ultimately reduce entitlements related costs that end up in the price of a home.

Respectfully,

Board of Directors of Friends of Austin Neighborhoods (FAN)

Cc: [Greg.Guernsey@austintexas.gov](mailto:Greg.Guernsey@austintexas.gov)  
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**Carport Exemption from FAR: Subchapter F**

**BACKGROUND**

In 2006, Austin adopted Subchapter F known as the “McMansion Ordinance”. Many exemptions were incorporated into the calculation of gross floor area in an attempt to minimize massing and scale. These exemptions are not producing the intended results nor any measurable aesthetic improvements, but they are resulting in odd design (see example on page 3) and an unnecessarily complicated and costly review process. Many other American cities have managed to create beautiful and functional built environments without the convoluted floor area calculations we have in Austin. Austin’s approach causes many problems:

- longer design time by architects,
- complicated trade-offs that hamper the creation of sensible housing, and
- an almost impossible review process for city staff.

This all also increases the cost of local housing, which is no one’s goal!

Homeowner confusion is also a problem. For example, some families recently added garage doors to their carports to store children’s bicycles. This seemingly innocent move instantly put their homes over allowable floor to area ratio, and this is what triggered the proposal Planning Commission is now supposed to consider. There are other examples of this convoluted, complex, and costly Austin misguided gross floor area code causing trouble: an approved home was involved in a lawsuit over the interpretation of “attic exemption” not long ago and how this part of the code really works is still not fully understood, including by many City Staff members and design/building professionals!

**In short, Austin’s gross floor area code, with all its exemptions, has proven to be unnecessarily complicated, costly to all stakeholders, and is creating unnecessary liability for all stakeholders as well.**

Recently PDRD was split up into two departments, resulting in a single department for Development Review Services. This new department is specifically tasked with streamlining and improving the review process in accordance with Zucker Report recommendations. The current complicated gross floor area code simply makes the review process very difficult for staff while NOT accomplishing the goals it was attend to achieve in the first place. We have met with Staff on this issue and heard first hand they agree with this interpretation, and they also explained how training new staff to understand this section of the code is nearly impossible and a significant source of confusion, stress, and lost time.

**Recently the Planning Commission Chair suggested simply increasing allowable FAR and removing all exemptions from the dais as part of a big-picture solution that might be fully resolved via CodeNext. The AIBG asks that this is exactly what should be implemented and now is the perfect opportunity to do so.**

**AIBG SUGGESTED IMPROVEMENTS**

- Remove Article 3 Section 3.3 “Gross Floor Area” from Subchapter F, replacing it with a simple definition.
- Increase FAR to 0.6 and minimum fixed square footage from 2,300 to 3,450. This is meant as an even swap for the exemptions of up to 650sf for parking structure, unlimited below-grade area, attic space, and unlimited covered porch area. (Prior to McMansion a 5,750sf lot could have .4 Building Area x 2 stories or 4,600sf before competing parameters.)

**BENEFITS**

- Simpler design, shorter design process, and better understanding for owners (*before* they unwittingly do something illegal).
- Streamlined review, shorter review periods with fewer errors, and less City liability.
- Financial savings throughout the design-permit-build process for ALL stakeholders, which WILL positively impact (lower) housing costs.
- Improved performance by the Development Review Department, which will help meet Zucker Report goals.
- No more staff memos explaining the code but that are not *in* the code. (Staff memos and clarifications and proof the code is not clear nor functional!)

# Austin Gross Floor Area Code is Too Complicated!

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## Check for yourself:

§ 3.3. - GROSS FLOOR AREA.

In this Subchapter, GROSS FLOOR AREA has the meaning assigned by [Section 25-1-21](#) (Definitions), with the following modifications:

3.3.1. In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under subsections 3.3.2, 3.3.3, or [3.3.4](#).

3.3.2. Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter:

A. Up to 450 square feet of:

1. A detached rear parking area that is separated from the principal structure by not less than 10 feet;
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; or
3. 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. Up to 200 square feet of:

1. An attached parking area if it used to meet the minimum parking requirement; or
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 site under paragraph A. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same site under paragraph B, but only for an attached parking area used to meet minimum parking requirements.

3.3.3. Porches, basements, and attics that meet 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 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 wall area, if the habitable portion is required to be below natural grade under paragraph 1.a.
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.

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.

3.3.4. An enclosed area shall be excluded from the calculation of gross floor area if it is five feet or less in height. For purposes of this subsection:

A. Area is measured on the outside surface of the exterior walls; and

B. Height is measured from the finished floor elevation, up to either:

1. the underside of the roof rafters; or
2. the bottom of the top chord of the roof truss, but not to collar ties, ceiling joists, or any type of furred-down ceiling.

3.3.5. An area with a ceiling height greater than 15 feet is counted twice.

Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20080618-093; Ord. 20130425-105.

**Austin's Gross Floor Area Code is NOT Accomplishing its Aim!**  
**Look at this example of a home that conforms to the current code--do the scale, volume, and aesthetics look improved to you?**



# PUBLIC COMMENT

## Re: AURA Views on Subchapter F Carport Exemption

Subchapter F, better known as the McMansion Ordinance, has placed limitations on the floor to area ratio (FAR) of new homes built in Austin. According to the McMansion Ordinance, the allowable FAR for a home is calculated using lengthy and complicated sets of exemptions. While these FAR requirements were originally devised to regulate massing and scale, they have failed to result in meaningful design improvements, and in fact have substantially harmed design, aesthetics, and the development process.

Years after Subchapter F was enacted, the city found itself in litigation over the ordinance's complicated "attic exemption" and had to issue memos clarifying the requirements. A decade after being enacted, other exemptions continue to cause problems—specifically, the carport exemption and its confusing distinction between what constitutes a carport and what constitutes a garage.

AURA does not support perpetuating this confusion with layers of fixes to Subchapter F's inherently flawed concept of space. Rather than further complicate matters, **AURA asks that the City scrap the whole concept we've tried for the last ten years without success, and do away with FAR restrictions entirely.**

Having FAR limitations, in addition to building coverage, limited building height, large setbacks, excessive parking, and additional residential design requirements is unnecessarily duplicative. Practically, only so much FAR is mathematically possible within the constraints of the McMansion tent, building height, and setback requirements. Therefore, Austin should simplify its land development code.

Austin has very burdensome zoning requirements for single-family lots. Austin zoning maps show that huge swaths of yellow lots where only detached single family construction is allowed. A multitude of "yellow lot laws" serve to perpetuate the economic segregation of Austin. Given the large minimum lot size required in single-family zones, an increasing number of our citizens can't afford to move into "yellow lot" areas—that is, the majority of the land in the city! Not only do we require large lots, we limit these large lots to very low density. By limiting the amount of habitable space even further via FAR requirements we have effectively put a very high premium on housing and we are manufacturing scarcity. AURA believes it is time to scrap this approach and embrace all types of housing attainable by all types of people in all areas of the city.

Furthermore, as the carport exemption is centered on the issue of off-street parking and because FAR makes parking compete with habitable space, **AURA also calls for the abolition of off-street parking minimums.** Removing off-street parking minimums does **not** prohibit the market from providing off-street parking where there is perceived demand. But it will allow the market to stop eating away at housing space for people where the market may choose people over parking. Homes with fewer parking spots can result in less impervious cover, healthier citizens, better affordability, and more feasible mass transit options.

There are other major problems with the McMansion Ordinance. The ordinance is single-family home centric and does not accommodate duplexes, triplexes, fourplexes, row homes, and other missing middle housing options. The McMansion Ordinance will not apply correctly to a compact and connected development pattern moving forward. The ordinance is ridiculously complicated for the city to manage

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at the staff review level as well as the code enforcement level. It adds precious time to the process, when we should be working to provide housing more quickly. The ultimate result is a slower supply line for housing, and increased costs for the housing that does come to market. With all this in mind, **AURA calls for Austin to move away from a housing policy regulated via Sub Chapter F.**

**From:** David Piper [REDACTED]  
**Sent:** Wednesday, September 14, 2016 3:17 PM  
**To:** Dutton, Greg  
**Cc:** Word, Daniel; Gonzales, Rodney; Barr, Susan; McGraw, Karen - BC; Burkhardt, William - BC; Kitchen, Ann; Kitchen, Ann  
**Subject:** RDCC carport exemption amendment coming to Council

Hello Greg,

I'm writing to you because you presented this code amendment to the PC, and I'm assuming that you will do the same for Council. If I'm mistaken, please forward this email to whomever will be presenting.

I spent hundreds of hours (no exaggeration) working on getting clearer code language for Subchapter F, 3.3.2. I appeared before the BoA, PC, and RDCC and spent a lot of time in conference rooms with Daniel Word and many others on Staff and with home builders.

The RDCC proposal is simple and limited, and I hope you will continue to recommend it at Council. It merely treats carports and garages equally in terms of FAR and removes the incentive to favor one over the other. One thing I would like to comment on is the statement by several people at the PC hearing that Subchapter F interpretation and particularly the carport FAR are not much of an issue any more, relatively speaking. (The RDCC's caseload dropped and they dissolved.)

One reason Staff and the RDCC weren't seeing as many FAR complaints, especially for carports, is because people such as me backed off, thinking the RDCC amendment was on its way to adoption. I assure you that the carport exemption is still being abused. A case in point in my neighborhood is 1708 Hether. The area of a staircase that goes to the second floor is contained within in the carport, yet was exempted from FAR. I'm sure, also, that I could identify plenty of "carport" sides that are less than 80% open if I wanted to resume poring over building plans with Staff. The interpretation of some of this stuff is arguable, and that is precisely what the RDCC amendment would diffuse. (And some things like the staircase are very clear.)

I urge you to do your enthusiastic best and marshal support for this well crafted and simple, narrow code amendment. I will help.

Sincerely,

Dave Piper  
607 Jessie 78704