

— REVISED —

Feb. 15, 2007

# 71

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 25-2, SUBCHAPTER E, SECTION 4.3 OF THE CITY CODE RELATING TO VERTICAL MIXED USE BUILDINGS; AND ESTABLISHING REGULATIONS RELATING TO EARLY OPT-IN/OPT-OUT DETERMINATIONS FOR VERTICAL MIXED USE BUILDINGS.

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

PART 1. Chapter 25-2, Subchapter E, Section 4.3.2 (*Where Allowed*) of the City Code is amended to amend Subsection A and add new Subsection C to read as follows:

A. A VMU building is allowed in the following zoning districts:

1. Mixed use (MU) combining district; and
2. Vertical mixed use (VMU) overlay district, subject to the limitations of Section 4.3.2.C.

C. This subsection applies to property in a VMU overlay district that is used exclusively for residential use and that is not designated as a MU combining district. A VMU building is allowed only:

1. through the opt-in process described in Section 4.3.5.C.5; or
2. through the conditional use permit process.

PART 2. Chapter 25-2, Subchapter E, Subsection 4.3.5.C (*Types of Opt-in/Opt-out Applications*) of the City Code is amended to add new Paragraphs 5 and 6 to read as follows:

5. **VMU Overlay District: Residential Opt-in**

A neighborhood that desires to allow VMU buildings within its boundaries on property in a VMU overlay district that is used exclusively for residential use and that is not designated as a MU combining district may submit an application to allow the development. The application shall specify the properties on which the neighborhood wishes to allow VMU buildings, whether ground-floor commercial listed in Section 4.3.3.C.2 should be allowed, and whether the dimensional and parking standards of Section 4.3.3.E.2 and 3 should apply.

1                   **6. Removal from the VMU Overlay District**

2                   A neighborhood may request that the Council amend the boundaries of  
3                   the VMU overlay district to remove a property from the overlay district.

4                   **PART 3.** This part establishes the regulations for early opt-in/opt-out determinations.

- 5                   (A) A person may, in accordance with this part, request that the council make the  
6                   determination required under Chapter 25-2, Subchapter E, Section 4.3.5  
7                   (*Individual Neighborhood Consideration of VMU Requirements ("Opt-in/Opt-*  
8                   *out Process")*) of the City Code before the completion of the opt-in/opt-out  
9                   process described in that section.
- 10                  (B) The council may adopt an opt-in/opt-out determination by zoning or rezoning  
11                  the applicable property after planning commission review.
- 12                  (C) A person may request an early determination only if the person has filed:
- 13                      (1) development assessment site plan pre-application for a proposed VMU  
14                      building; or
- 15                      (2) an application for an approval of a zoning change, site plan, or building  
16                      permit for a proposed VMU building.
- 17                  (D) To request an early determination, a person must:
- 18                      (1) file an application for zoning or rezoning requesting an early  
19                      determination and expedited review with the director of the  
20                      Neighborhood Planning and Zoning Department on a form provided by  
21                      the director; or
- 22                      (2) if the property is the subject of a pending zoning or rezoning case,  
23                      amend the zoning application to include a request for an early  
24                      determination.
- 25                  (E) The applicant shall seek a recommendation for an early opt-in/opt out  
26                  determination from the appropriate neighborhood group identified in Chapter  
27                  25-2, Subchapter E, Section 4.3.5.B.1 (*Initiation*).
- 28                  (F) A request made when a zoning or rezoning case is pending before the council  
29                  shall be sent to the planning commission for a recommendation.
- 30                  (G) A public hearing before the planning commission shall be scheduled for the  
31                  first available planning commission agenda after a request is received, but not  
32                  less than 30 days after the notice of hearing is issued. A notice issued for a

1 hearing on a request made under this part shall include the dates for both  
2 planning commission and council consideration.

3 (H) An early determination is not available after completion of the opt-in/opt-out  
4 process described in Chapter 25-2, Subchapter E, Section 4.3.5 (*Individual*  
5 *Neighborhood Consideration of VMU Requirements ("Opt-in/Opt-out*  
6 *Process"*)).

7 **PART 4.** This ordinance takes effect on \_\_\_\_\_, 2007.

8 **PASSED AND APPROVED**

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12 \_\_\_\_\_, 2007

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Will Wynn  
Mayor

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17 **APPROVED:** \_\_\_\_\_

18 David Allan Smith  
19 City Attorney

**ATTEST:** \_\_\_\_\_

20 Shirley A. Gentry  
21 City Clerk  
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