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## ORDINANCE AMENDMENT REVIEW SHEET

**AMENDMENT:** C2o-2010-020

**DESCRIPTION:** Amend Chapters 25-1 and 25-2 of the City Code to modify requirements for open space

**BACKGROUND:** By Resolution No. 20090514-036, City Council directed staff to review and make recommendations on modifications to the city-wide standards and criteria for what qualifies as open space. The resolution further stated that the proposed revisions should consider the needs of families and children, including child-friendly features such as interactive play spaces, art, requirements for public access, bicycle and pedestrian connectivity, and the functionality of the open space provided (Attachment A).

**CURRENT REGULATIONS:** Private open space -- which is intended for use by residents, employees, or visitors to a development rather than the general public -- is already required for most multi-family and commercial development. For multi-family development, the existing requirements are contained in Sec. 25-2-514 and 25-2-560 to 564. For commercial development, the requirements are contained in Sec. 2.7 of Subchapter E (Attachment B).

**ISSUES:** In analyzing the existing requirements, staff identified the following major issues:

1. The requirements for commercial development have qualitative criteria that are missing from the multi-family requirements.
2. The commercial development standards require a certain percentage of the site area to be open space, while the multi-family standards are based on the number of units and density.
3. The amount of common open space required for multi-family development is relatively small.
4. For affordable housing, the existing Code has incentives to reduce the amount of open space provided.

The following issues were raised by boards and commissions during the review of the proposed amendments:

**Early Childhood Council** – Make the option of providing playscapes for children a more attractive option (Attachment C).

**Design Commission** – Allow public open space and Great Streets improvements to count toward the private open space requirement downtown. Make open space requirements for downtown match the requirements for Transit Oriented Developments. Review the open space requirements periodically (Attachment D).

**Downtown Commission** - Consider exempting downtown from open space requirements, or allow Great Streets improvements to count towards the open space requirements (Attachment E).

Concern has also been raised by stakeholders about the effect of the proposed changes on housing affordability.

**DEPARTMENTAL COMMENTS:** The original staff proposals were revised in response to comments received during public review and comment. A summary of the proposed changes is contained in Attachment F. A preliminary draft of the ordinance amendment is found in Attachment G. An Affordability Impact Statement is contained in Attachment H.

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**STAFF RECOMMENDATION:** To approve the proposed amendments. The major changes proposed are:

- Make the private open space requirements for multi-family development consistent with those for commercial development.
- Apply open space requirements to the University Neighborhood Overlay (UNO) zoning district.
- Exempt condominium and multi-family development from on-site open space requirements if affordable units are provided and the site is located within ¼ mile of public parkland.
- Require open space for commercial sites two acres or larger, instead of five acres, and for all multi-family and condominium uses.
- Increase the amount of common open space required from two percent to five percent of the area.
- Allow a reduction in the total amount of open space required if play areas for children are provided.
- Allow multi-use trails and other amenities to satisfy the open space requirements.
- Allow above-ground facilities or streetscape improvements to satisfy the open space requirements in certain zoning districts.

**BASIS FOR RECOMMENDATION:** The amendments are consistent with the direction provided in the Council resolution.

**PLANNING COMMISSION ACTION:**

**CITY COUNCIL ACTION:**

**ORDINANCE READINGS:**                      1<sup>st</sup>                      2<sup>nd</sup>                      3<sup>rd</sup>

**ORDINANCE NUMBER:**

**ASSIGNED STAFF:** George Zapalac, 974-2725

### ATTACHMENTS

- A - Council Resolution No. 20090514-036
- B - Existing Open Space Ordinance Requirements
- C - Resolution from Early Childhood Council
- D - Resolution from Design Commission
- E - Resolution from Downtown Commission
- F - Open Space Proposed Ordinance Amendments – Summary of Major Changes
- G - Preliminary Draft Ordinance
- H - Affordability Impact Statement

**RESOLUTION NO. 20090514-036**

**WHEREAS**, the City Council amended its Citywide Strategic Priorities to realize the City's vision of being the most livable city by focusing on a "Healthy, Safe, and Family-Friendly City"; and

**WHEREAS**, public open space is critical in achieving the goals of being a "Healthy, Safe, and Family-Friendly City"; and

**WHEREAS**, the City Council has reviewed and adopted a number of recent initiatives aimed at improving the functionality of public space and providing a more bicycle and pedestrian-friendly environment, including the new Commercial Design Standards, Transit-Oriented Development districts, Parks Master Plan, Trails Plan, and the Sidewalks Master Plan; and

**WHEREAS**, on January 29, 2009, the City Council adopted the Design Commission's recommendations on the Downtown Design Guidelines, which includes principles that open spaces and plazas are public spaces, and that these natural public amenities encourage human occupancy; and

**WHEREAS**, public open space can accommodate and encourage the interaction of the wide social, cultural, ethnic, economic and age diversity that exists in our city; and

**WHEREAS**, public open space may be used as a transition and to link residential neighborhoods to commercial development through expanded streetscapes, linear greenways, or neighborhood parks and plazas; and

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**WHEREAS**, the Families and Children Task Force recommended that all City of Austin planning efforts pertaining to parks and open space should take into consideration the special needs of children of all ages and include family-friendly amenities; and

**WHEREAS**, the Land Use and Transportation Committee of the City Council reviewed the recommendations of the Families and Children Task Force, as well as the city's existing open space standards, and identified a need to improve the clarity and consistency in the wording and outcomes of existing standards, as well as to ensure that the standards result in the best possible design for Austinites of all ages and abilities; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The City Council directs the City Manager to work with relevant boards and commission, including but not limited to, the Design Commission and the Early Childhood Council to review and make recommendations on modifications to the city-wide standards and criteria for what qualifies as open space.

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**BE IT FURTHER RESOLVED:**

The proposed revisions should consider the needs of families and children, including child-friendly features such as interactive play spaces, art, requirements for public access, bicycle and pedestrian connectivity, and the functionality of the open space provided.

**APPROVED:** May 14, 2009

**ATTEST:**

*Shirley A. Gentry*  
Shirley A. Gentry  
City Clerk

**EXISTING OPEN SPACE ORDINANCE REQUIREMENTS**

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**§ 25-1-21 DEFINITIONS**

(70) OPEN SPACE means an outdoor or unenclosed area, located on the ground or on a roof, balcony, deck, porch, or terrace, designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, excluding parking facilities, driveways, utility, and service areas.

**§ 25-2-514 OPEN SPACE STANDARDS.**

- (A) A required open space must comply with the requirements of this section.
- (B) For a use with ten or more dwelling units, at least 25 percent of the required open space must be common open space.
- (C) The surface of a required open space must be suitable for outdoor activities. A surface must consist of lawn, garden, flagstone, wood planking, concrete, asphalt, or other serviceable, dust free material.
- (D) Except as otherwise provided in this subsection, a required open space may be located anywhere on the site.
  - (1) Not more than 30 percent of the required open space may be located on a roof, balcony, or other area above ground level.
  - (2) Open space may not be located in a required street yard.
  - (3) Open space may not be located in an off-street parking or loading areas, driveway, or service area, except as permitted in Chapter 25-6, Appendix A (*Tables Of Off-Street Parking And Loading Requirements*).
- (E) This subsection prescribes the size and shape of a required open space.
  - (1) An area of common open space must contain at least 300 square feet and be not less than 15 feet across in each direction.
  - (2) An area of private open space on ground level must contain at least 100 square feet and be not less than ten feet across in each direction.
  - (3) An area of private open space above ground level must contain at least 50 square feet and be not less than five feet across in each direction.
  - (4) In determining the amount of open space on a roof, an area occupied by a vent or structure that does not enhance the usability of the space is excluded.

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(F) This subsection provides for the covering of a required open space.

(1) Not more than 50 percent of ground level open space may be covered by a fixed manmade obstruction, including a roof, balcony, or building projection.

(2) Open space above ground level may be covered, but must have at least one exterior side open and unobstructed, except for railings or balustrades.

(G) Required open space must be permanently maintained.

**§ 25-2-560 MULTIFAMILY RESIDENCE LIMITED DENSITY (MF-1) DISTRICT REGULATIONS.**

(C) The minimum open space for each dwelling unit is 300 square feet.

*Source: Section 13-2-638; Ord. 990225-70; Ord. 031211-11.*

**§ 25-2-561 MULTIFAMILY RESIDENCE LOW DENSITY (MF-2) DISTRICT REGULATIONS.**

(C) The minimum open space for each dwelling unit is 200 square feet.

*Source: Section 13-2-640; Ord. 990225-70; Ord. 031211-11.*

**§ 25-2-562 MULTIFAMILY RESIDENCE MEDIUM DENSITY (MF-3) DISTRICT REGULATIONS.**

(C) The minimum open space for each dwelling unit is 150 square feet.

*Source: Section 13-2-641; Ord. 990225-70; Ord. 031211-11.*

**§ 25-2-563 MULTIFAMILY RESIDENCE MODERATE-HIGH DENSITY (MF-4) AND MULTIFAMILY RESIDENCE HIGH DENSITY (MF-5) DISTRICT REGULATIONS.**

(C) The minimum open space for each dwelling unit is 100 square feet.

*Source: Sections 13-2-642 and 13-2-643; Ord. 990225-70; Ord. 031211-11.*

**§ 25-2-564 MULTIFAMILY RESIDENCE HIGHEST DENSITY (MF-6) DISTRICT REGULATIONS.**

In a multifamily residence highest density (MF-6) district, the minimum open space for each dwelling unit is 100 square feet.

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## SUBCHAPTER E

### § 2.7. PRIVATE COMMON OPEN SPACE AND PEDESTRIAN AMENITIES.

**2.7.1. Purpose.** Open air and semi-enclosed public gathering spaces can act as central organizing elements in a large development. They can also help to shape the relationship between different land uses and provide focal points and anchors for pedestrian activity. Goals and requirements for common open space and pedestrian amenities complement the Austin Code's requirements for dedicated public open space and parks, and serve similar purposes.

**2.7.2. Applicability.** The following table summarizes the applicability of this section:

Standard	Applies if the Principal Street Is:	Applies to the Following:
2.7. Private Common Open Space and Pedestrian Amenities	All roadway types	All site plans five acres in size or larger

#### 2.7.3. Standards.

**A. Amenity Required.** All development subject to this section shall devote a minimum of two percent of the net site area to one of the following types of private common open space or pedestrian amenities:

1. A natural and undisturbed private common open space, for use of the residents, employees, and visitors to the development.
2. A landscape area other than one required by Subchapter C, Article 9 (Landscaping), provided such landscaped area has a minimum depth and width of 10 feet and a minimum total area of 650 square feet. The area shall include pedestrian amenities to support these places as gathering areas.
3. A playground, patio, or plaza with outdoor seating areas, provided the playground, patio, or plaza has a minimum depth and width of ten feet and a minimum total area of 300 square feet. The area shall include pedestrian amenities to support these places as gathering areas.
4. A combination of the above-listed amenities. (See Figure 44.)

**Click here for Figure 44:** Examples of open space amenities



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Developments with primarily residential uses are encouraged to comply with this requirement by setting aside private common open space, while developments with a mix of uses or primarily non-residential uses are encouraged to comply by providing one or more of the other listed amenities.

**B. Location Criteria.** To the maximum extent feasible, where significant natural and scenic resource assets exist on a property, the developer shall give priority to their preservation as private common open space. In reviewing the proposed location of private common open space areas, the Director shall use all applicable plans, maps, and reports to determine whether significant resources exist on a proposed site that should be protected, with priority being given to the following areas (which are not listed in a particular order):

1. Wetlands;
2. Flood hazard areas;
3. Lakes, rivers, and stream/riparian corridors;
4. Tree preservation areas (See Figure 45.); and
5. Karst areas.

**Click here for Figure 45:** Example of tree preservation during construction

**C. Areas Not Credited.** Lands within the following areas shall not be counted towards private common open space or pedestrian amenities required by this section:

1. Private yards;
2. Public or private streets or rights of way;
3. Parking areas and driveways for dwellings; and
4. Water quality and storm water detention ponds, unless approved by the Director.

**D. Design Criteria.** Land set aside for private common open space or pedestrian amenities pursuant to this section shall meet the following design criteria, as relevant:

1. Common open space areas shall be located so as to be readily accessible and useable by residents or visitors in various locations of the development, unless the lands are sensitive natural resources and access should be restricted.

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2. The lands shall be compact and contiguous unless the land shall be used as a continuation of an existing trail, or specific topographic features require a different configuration. An example of such topographic features would be the provision of a trail or private open area along a riparian corridor.

3. Where private common open space areas, trails, parks, or other public spaces exist adjacent to the tract to be subdivided or developed, the private common open space or pedestrian amenity shall, to the maximum extent feasible, be located to adjoin, extend, and enlarge the presently existing trail, park, or other open area land.

E. **Maintenance.** All private common open space or pedestrian amenity areas shall be maintained by the owners of the development.

F. **Fee In Lieu.** Instead of providing private common open space or pedestrian amenities as required in this section, the developer of a property located within the urban roadways boundary (as defined in Article 5 of this Subchapter) may request approval to deposit with the city a nonrefundable cash payment, based on a formula established by the council. The Director shall review the request and accept or deny the request no later than 15 days following its receipt.



**Austin/Travis County Health and Human Services Department  
Early Childhood Council**



*C2/11*

January 13, 2011

**Chairperson**

Aletha Huston

**Vice-Chairperson**

Kyle Holder

**Members**

- Albert Black
- Sue Carpenter
- Larry Eisner
- Anna Lisa Fahrenthold
- Rhonda Paver
- Jacque Porter
- Cindy Rojas Rodriguez
- Natasha Rosofsky
- Margie Sanford
- Debra Keith-Thompson
- Avis Wallace

Early Childhood  
Council  
City of Austin HHSD  
P. O. Box 1088  
Austin, Texas 78767  
(512) 972-5028

George Zapalac  
Planning and Development Review Department  
City of Austin  
Austin, Texas

Dear Mr. Zapalac:

Thank you so much for attending two meetings of the Early Childhood Council for the presentation and discussion about the proposed Open Space ordinance.

As you and the City Council resolution requested, the Early Childhood Council acted on a recommendation about the ordinance. A motion to support the ordinance with the recommendation that it have stronger provisions to require children's play spaces was passed unanimously at the ECC's January 11, 2011 meeting.

In the discussion about the motion, Council members expressed concerns that, among the many options provided for open space, playscapes for children may be less attractive to developers in terms the amount of space, expense, and mixed use. Therefore, the motion included a recommendation to make that component a more compelling choice for developers.

Children, families, and child care are frequently affected by development issues. On behalf of the Early Childhood Council I want to express our appreciation for being included in the deliberations about the Open Space ordinance, and encourage you to return to the ECC as other child-related issues occur.

Sincerely yours,

Aletha C. Huston  
Chair

xc: Bert Lumbreras, Assistant City Manager  
David Lurie, HHSD Director  
Vince Cobalis, HHSD Human Services Assistant Director



## AUSTIN DESIGN COMMISSION

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February 28, 2011

BART WHATLEY  
CHAIR  
JUAN COTERA  
DAVID KNOLL  
JAMES SHIEH  
RICHARD WEISS  
JEANNIE  
WIGINTON

RE: Open Space Requirements Amendments

Dear Mayor & Members of the City Council,

The Open Space Committee of the Design Commission was presented with proposed Open Space Requirements Amendments to the City Code by Mr. George Zapalac. Mr Zapalac presented the open space analysis by his office and proposed various code amendments.

GEORGE ADAMS  
EXECUTIVE LIAISON

Following deliberation and discussion, The Design Commission proposes the following for your consideration:

JORGE E. ROUSSELIN  
STAFF LIAISON

- Consider evaluating buildings in their neighborhood context to recognize existing public open space in the vicinity such that this public open space may count towards the open space requirement for Downtown buildings;
- Consider improvements beyond the Great Streets minimum standard sidewalks by a development or building to count towards the open space requirements;
- Encourage and incentivize public open space immediately adjacent to the ROW;
- Consider proposing requirements for Downtown which match the existing requirements for TODs; and
- Reviewing the policy of open space requirements periodically to examine compliance and proper application of amendments in response to market conditions.

Please contact us should you have any questions on the above items.

We appreciate the opportunity to comment on this project.

Sincerely,

Bart Whatley  
Chair, City of Austin Design Commission



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**M E M O R A N D U M**

**TO:** Mayor Lee Leffingwell and City Council Members

**FROM:** Mandy Dealey, Chair  
Downtown Commission

**DATE:** March 23, 2010

**RE:** Code Amendment C2O-2010-020: Amend the City Code to modify requirements for open space.

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At the Wednesday, February August 16, 2011 meeting, the Downtown Commission heard a presentation from George Zapalac, Planning and Development Review Department, on the proposed open space ordinance. After the presentation, the Downtown Commission adopted the following resolution:

“The City Council should consider exempting downtown from the open space requirement. If downtown is not exempted, the Downtown Commission recommends including the Great Streets sidewalk area as counting towards the open space requirement.”

This resolution was adopted on a 9-4-1 vote.

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Mandy Dealey, Chair  
Downtown Commission

**OPEN SPACE  
PROPOSED ORDINANCE AMENDMENTS  
SUMMARY OF MAJOR CHANGES  
3-14-11**

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**25-1-21 DEFINITIONS**

- Add definitions of Common and Personal Open Space.

**25-2-514 OPEN SPACE STANDARDS**

- Delete this section and relocate the requirements to Sec. 25-2-776, 25-2-780, and the Open Space section of the Design Standards in Sec. 2.7.3 of Subchapter E.

**25-2-560 TO 564 MULTIFAMILY RESIDENCE DISTRICT REGULATIONS**

- Delete the open space requirements from these sections and combine them with the Open Space section of the Design Standards in Sec. 2.7 of Subchapter E.
- Change the method of calculating open space from a per-unit basis to a per-site basis.

**25-2-763 CERTAIN REGULATIONS INAPPLICABLE OR SUPERSEDED  
[UNIVERSITY NEIGHBORHOOD OVERLAY]**

- Delete the provision which exempts UNO from the open space requirements.

**25-2-776 CONDOMINIUM RESIDENTIAL USE**

- Apply open space requirements to condominiums regardless of zoning district.
- Exempt condominiums from open space requirements if they provide affordable housing and are within ¼ mile of public parkland.
- Allow condominiums with less than 10 units to provide personal open space in lieu of common open space.

**25-2-780 MULTIFAMILY RESIDENTIAL USE [new section]**

- Require multifamily development to comply with open space requirements of Subchapter E.
- Exempt multifamily uses from open space requirements if they provide affordable housing and are within ¼ mile of public parkland.
- Allow multifamily uses with less than 10 units to provide personal open space in lieu of common open space.

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**SUBCHAPTER E**

**2.7. PRIVATE COMMON OPEN SPACE AND PEDESTRIAN AMENITIES**

**2.7.2. Applicability**

- Require open space for all site plans two acres or larger, instead of five acres or larger, and all multifamily and condominium uses.

**2.7.3 Standards**

**2.7.3.A. Amenity Required**

- Change requirement from two percent of the net site area to five percent of the gross site area.
- Provide other options for satisfying the requirement of an amenity.
- Increase the minimum size of amenities
- Provide standards for different types of amenities.
- Allow 10% reduction in open space if play areas for children are provided.

**2.7.3.B. Location Criteria**

- Allow for other types of open space to be provided.
- Encourage provision of trail connections.

**2.7.3.C. Areas Not Credited**

- Clarify that required street yards may not be included in open space calculation.

**2.7.3.D. Design Criteria**

- Include standards for surfacing.
- Allow above-ground facilities to satisfy 100% of the open space requirement in CBD, DMU, VMU, V, and UNO districts.
- Allow streetscape improvements in public right-of-way to satisfy the open space requirement in CBD, DMU, VMU, and V districts unless the City participates or the improvements are required by CURE zoning

**2.7.3.F. Fee in Lieu**

- Make the fee an option only in event of impracticality or hardship.

OPEN SPACE  
PROPOSED ORDINANCE AMENDMENTS  
DRAFT 3-14-11

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§ 25-1-21 DEFINITIONS

(70) PRIVATE COMMON OPEN SPACE means a privately-owned an-outdoor or unenclosed area, located on the ground or on a roof, balcony, deck, porch, or terrace, designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, and intended for use by the residents, employees, and/or visitors to a development, excluding parking facilities, driveways, utility, and service areas.

PRIVATE PERSONAL OPEN SPACE means a privately-owned outdoor or unenclosed area, located on the ground or on a roof, balcony, deck, porch, or terrace, designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, and intended for use solely by the individual residents of a condominium or multifamily dwelling unit.

~~§ 25-2-514 OPEN SPACE STANDARDS.~~

- ~~—(A)— A required open space must comply with the requirements of this section.~~
- ~~—(B)— For a use with ten or more dwelling units, at least 25 percent of the required open space must be common open space.~~
- ~~—(C)— The surface of a required open space must be suitable for outdoor activities. A surface must consist of lawn, garden, flagstone, wood planking, concrete, asphalt, or other serviceable, dust free material.~~
- ~~—(D)— Except as otherwise provided in this subsection, a required open space may be located anywhere on the site.~~
  - ~~—(1)— Not more than 30 percent of the required open space may be located on a roof, balcony, or other area above ground level.~~
  - ~~—(2)— Open space may not be located in a required street yard.~~
  - ~~—(3)— Open space may not be located in an off-street parking or loading areas, driveway, or service area, except as permitted in Chapter 25-6, Appendix A (Tables Of Off-Street Parking And Loading Requirements).~~
- ~~—(E)— This subsection prescribes the size and shape of a required open space.~~
  - ~~—(1)— An area of common open space must contain at least 300 square feet and be not less than 15 feet across in each direction.~~



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~~—(2)— An area of private open space on ground level must contain at least 100 square feet and be not less than ten feet across in each direction.~~

~~—(3)— An area of private open space above ground level must contain at least 50 square feet and be not less than five feet across in each direction.~~

~~—(4)— In determining the amount of open space on a roof, an area occupied by a vent or structure that does not enhance the usability of the space is excluded.~~

~~—(F)— This subsection provides for the covering of a required open space.~~

~~—(1)— Not more than 50 percent of ground level open space may be covered by a fixed manmade obstruction, including a roof, balcony, or building projection.~~

~~—(2)— Open space above ground level may be covered, but must have at least one exterior side open and unobstructed, except for railings or balustrades.~~

~~—(G)— Required open space must be permanently maintained.~~

**§ 25-2-560 MULTIFAMILY RESIDENCE LIMITED DENSITY (MF-1) DISTRICT REGULATIONS.**

~~(C)— The minimum open space for each dwelling unit is 300 square feet.~~

*Source: Section 13-2-638; Ord. 990225-70; Ord. 031211-11.*

**§ 25-2-561 MULTIFAMILY RESIDENCE LOW DENSITY (MF-2) DISTRICT REGULATIONS.**

~~(C)— The minimum open space for each dwelling unit is 200 square feet.~~

*Source: Section 13-2-640; Ord. 990225-70; Ord. 031211-11.*

**§ 25-2-562 MULTIFAMILY RESIDENCE MEDIUM DENSITY (MF-3) DISTRICT REGULATIONS.**

~~(C)— The minimum open space for each dwelling unit is 150 square feet.~~

*Source: Section 13-2-641; Ord. 990225-70; Ord. 031211-11.*

**§ 25-2-563 MULTIFAMILY RESIDENCE MODERATE-HIGH DENSITY (MF-4) AND MULTIFAMILY RESIDENCE HIGH DENSITY (MF-5) DISTRICT REGULATIONS.**

~~(C)— The minimum open space for each dwelling unit is 100 square feet.~~

Source: Sections 13-2-642 and 13-2-643; Ord. 990225-70; Ord. 031211-11.

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**§ 25-2-564 MULTIFAMILY RESIDENCE HIGHEST DENSITY (MF-6) DISTRICT REGULATIONS.**

~~—In a multifamily residence highest density (MF-6) district, the minimum open space for each dwelling unit is 100 square feet.~~

**25-2-763 CERTAIN REGULATIONS INAPPLICABLE OR SUPERSEDED [UNIVERSITY NEIGHBORHOOD OVERLAY]**

(C) For a multi-family residential use, minimum site area and open space requirements of this subchapter do not apply.

**25-2-776 CONDOMINIUM RESIDENTIAL USE**

(F) Except as provided in Subsection (B), a condominium use with 10 or more dwelling units in a building constructed after the effective date of this ordinance must comply with the open space requirements in Sec. 2.7 of Subchapter E.

(G) A condominium use that meets the affordability requirements of Sec. 4.3.3 of Subchapter E is not required to provide on-site open space if it is located within ¼ mile safe walking distance of an existing and developed public park or multi-use trail, measured from the boundary of the site to the nearest public entrance of the park or multi-use trail.

(H) A condominium use with less than ten dwelling units must provide private personal open space equivalent to 5 percent of the net site area of the property. An area of private personal open space at ground level must contain at least 100 square feet and be not less than ten feet across in each direction. An area of private personal open space above ground level must contain at least 50 square feet and be not less than five feet across in each direction.

**25-2-780 MULTIFAMILY RESIDENTIAL USE**

(A) Except as provided in Subsection (B), a multifamily use with 10 or more dwelling units in a building constructed after the effective date of this ordinance must comply with the open space requirements in Sec. 2.7 of Subchapter E.

(B) A multifamily use that meets the affordability requirements of Sec. 4.3.3 of Subchapter E is not required to provide on-site open space if it is located within ¼ mile safe walking distance of an existing and developed public park or multi-use trail, measured from the boundary of the site to the nearest public entrance of the park or multi-use trail.

(C) A multifamily use with less than ten dwelling units must provide private personal open space equivalent to 5 percent of the net site area of the property. An area of

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private personal open space at ground level must contain at least 100 square feet and be not less than ten feet across in each direction. An area of private personal open space above ground level must contain at least 50 square feet and be not less than five feet across in each direction.

SUBCHAPTER E

§ 2.7. PRIVATE COMMON OPEN SPACE AND PEDESTRIAN AMENITIES.

2.7.1. **Purpose.** Open air and semi-enclosed public gathering spaces can act as central organizing elements in a large development. They can also help to shape the relationship between different land uses and provide focal points and anchors for pedestrian activity. Goals and requirements for common open space and pedestrian amenities complement the Austin Code's requirements for dedicated public open space and parks, and serve similar purposes.

2.7.2. **Applicability.** The following table summarizes the applicability of this section:

Standard	Applies if the Principal Street Is:	Applies to the Following:
2.7. Private Common Open Space and Pedestrian Amenities	All roadway types	All site plans <del>five</del> two acres in size or larger, and all multifamily and condominium uses except as provided in 25-2-776 and 25-2-780.

2.7.3. Standards.

A. **Amenity Required.** All development subject to this section shall devote a minimum of ~~two~~ five percent of the net gross site area to one or more of the following types of private common open space or pedestrian amenities:

1. A natural and ~~undisturbed~~ undeveloped private common open space, for use of the residents, employees, and visitors to the development.

2. A landscape area other than one required by Subchapter C, Article 9 (Landscaping), provided such landscaped area has a minimum depth and width of ~~10~~ 20 feet and a minimum total area of 650 square feet. The area shall include pedestrian amenities to support these places as gathering areas.

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3. A playground, patio, or plaza with outdoor seating areas, provided the playground, patio, or plaza has a minimum depth and width of ~~ten~~ 20 feet and a minimum total area of ~~300~~ 650 square feet. The area shall include pedestrian amenities including fully or partially shaded spaces with flexible or permanent seating to support these places as gathering areas.
4. A play area with amenities and /or equipment suitable for children under nine years of age, provided the play area has a minimum depth and width of 20 feet and a minimum total area of 650 square feet. Play areas shall comply with the most current Consumer Product Safety Commission guidelines for playgrounds as well as ASTM International standards as applicable and shall have impediments between the activity area and any nearby vehicular drives or parking areas to minimize the opportunities for young children to wander into traffic. Such impediments may include berms, fencing, landscaping or other barriers as appropriate to the site and which meet safety standards. Play areas shall include partially-shaded areas with flexible or permanent seating for adult supervision. A project which chooses this option may reduce the total amount of open space required by 10 percent.
5. Spaces that provide educational, historic, or cultural features, or sensory experiences such as culinary, therapeutic or sculptural gardens; soundscapes; and interactive water features
6. Swimming pool, wading pool, or splash pad.
7. Water quality and storm water detention ponds designed as an amenity and approved by the Director.
8. A multi-use trail proposed in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan, or Bicycle Plan.
9. Basketball, tennis, volleyball, or other sport courts or playing fields.
10. A combination of the above-listed amenities. (See Figure 44.)

**Click here for Figure 44:** Examples of open space amenities

~~Developments with primarily residential uses are encouraged to comply with this requirement by setting aside private common open space, while developments with a mix of uses or primarily non-residential uses are encouraged to comply by providing one or more of the other listed amenities.~~

**B. Location Criteria.** To the maximum extent feasible, where significant natural and scenic resource assets exist on a property, the developer shall give priority to their preservation as private common open space. In reviewing the proposed location of

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private common open space areas, the Director shall use all applicable plans, maps, and reports to determine whether significant resources exist on a proposed site that should be protected, with priority being given to the following areas (which are not listed in a particular order):

1. Wetlands; native prairies or meadows
2. Flood hazard areas;
3. Lakes, rivers, and stream/riparian corridors;
4. Tree preservation areas (See Figure 45.); and
5. Karst areas.
6. Cultural or historically significant structures, landscapes, features and/or places
7. Agricultural lands used for cultivation of local produce

Where private common open space areas, trails, parks, or other public spaces exist or are proposed in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan, or Bicycle Plan within or adjacent to the tract to be subdivided or developed, the private common open space or pedestrian amenity shall, to the maximum extent feasible, be located to adjoin, extend, and enlarge the presently existing or proposed trail, park, or other open area land. Public access easements may be required in order to guarantee public access to these facilities.

**Click here for Figure 45:** Example of tree preservation during construction

**C. Areas Not Credited.** Lands within the following areas shall not be counted towards private common open space or pedestrian amenities required by this section:

1. ~~Private yards;~~ Open space in a required street yard
2. Public or private streets or rights of way, except as provided in (D)(5);
3. ~~Parking areas and driveways for dwellings~~ Off-street parking, loading areas, driveways, and service areas; and
4. Water quality and storm water detention ponds, unless designed as an accessible amenity and approved by the Director.

**D. Design Criteria.** Land set aside for private common open space or pedestrian amenities pursuant to this section shall meet the following design criteria, as relevant:

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1. Common open space areas shall be located so as to be readily accessible and useable by residents or visitors in various locations of the development, unless the lands are sensitive natural resources and access should be restricted.

2. ~~The lands~~ Open space areas shall be compact and contiguous unless the ~~land open space is shall be~~ used as a continuation of an existing trail, or specific or unique topographic features that are adjacent or adjoining require a different configuration. An example of such topographic features would be the provision of a trail or private open area along a riparian corridor.

3. ~~Where private common open space areas, trails, parks, or other public spaces exist adjacent to the tract to be subdivided or developed, the private common open space or pedestrian amenity shall, to the maximum extent feasible, be located to adjoin, extend, and enlarge the presently existing trail, park, or other open area land.~~ The surface of a required open space must be suitable for outdoor activities. A surface must consist of lawn, garden, flagstone, wood planking, concrete, or other serviceable, dust free material. Asphalt or similar surfacing may be used for designated recreation areas such as multi-purpose trails, tennis courts, and basketball courts. Decomposed granite may be used if approved by the Director and if accessibility requirements are met. . A combination of different materials is encouraged.

4. Except in the CBD, DMU, VMU, V, and UNO zoning districts, not more than 30 percent of the required open space may be located on a roof, balcony, or other area above ground level. In determining the amount of open space on a roof, an area occupied by a vent, mechanical equipment or structure that does not enhance the usability of the space is excluded.

5. In the CBD, DMU, VMU, and V zoning districts, streetscape improvements within public right-of-way may be included in the calculation of open space except for the area within the Clear Zone as defined in Subchapter E. This provision does not apply to streetscape projects for which the City participates in the cost of the improvements or which are required to be constructed as a condition of CURE zoning.

6. This subsection provides for the covering of a required open space.

a. Not more than 50 percent of ground level open space may be covered by a fixed manmade obstruction, including a roof, balcony, or building projection. Roof gardens and sculptural elements that are accessible to the public will not be considered manmade obstructions.

b. Open space above ground level may be covered, but must have at least one exterior side open and unobstructed, except for railings or balustrades.

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E. **Maintenance.** All private common open space or pedestrian amenity areas shall be permanently maintained by the owners of the development.

F. **Fee In Lieu.** Instead of providing private common open space or pedestrian amenities as required in this section, the developer of a property located within the urban roadways boundary (as defined in Article 5 of this Subchapter) may request approval to deposit with the city a nonrefundable cash payment, based on a formula established by ~~the council rule~~. The Director shall review the request and accept or deny the request based on established criteria no later than 15 days following its receipt. The Director may approve payment of the fee upon determining that provision of on-site open space is impractical or unreasonable due to physical characteristics or the site or undue financial hardship.



PRELIMINARY AFFORDABILITY IMPACT STATEMENT  
 NEIGHBORHOOD HOUSING AND COMMUNITY DEVELOPMENT  
 CITY COUNCIL AGENDA: PENDING CASE NUMBER: PENDING

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PROPOSED RULES POSTING::	PROPOSED OPEN SPACE ORDINANCE AMENDMENTS
IMPACT ON REGULATORY BARRIERS TO HOUSING DEVELOPMENT	<input checked="" type="checkbox"/> INCREASE <input type="checkbox"/> DECREASE <input type="checkbox"/> NO IMPACT
LAND USE / ZONING OPPORTUNITIES FOR AFFORDABLE HOUSING DEVELOPMENT	<input type="checkbox"/> INCREASE <input checked="" type="checkbox"/> DECREASE <input type="checkbox"/> NO IMPACT
IMPACT ON COST OF DEVELOPMENT	<input checked="" type="checkbox"/> INCREASE <input type="checkbox"/> DECREASE <input type="checkbox"/> NO IMPACT
IMPACT ON PRODUCTION OF AFFORDABLE HOUSING	<input type="checkbox"/> INCREASE <input checked="" type="checkbox"/> DECREASE <input type="checkbox"/> NO IMPACT
PROPOSED CHANGES IMPACTING HOUSING AFFORDABILITY:	THE AFFORDABLE HOUSING INCENTIVE TASK FORCE RECOMMENDED THE "GREENFIELD" INCENTIVES (SECT 25-2-567) GIVEN TO DEVELOPMENTS OF AFFORDABLE MULTI-FAMILY PROJECTS TO BE BUILT ON PREVIOUSLY VACANT PROPERTY. NHCD FEELS STRONGLY THAT THE PROPOSED AMENDMENT WOULD NEGATE THE INCENTIVE FOR AFFORDABLE DEVELOPMENT. THE INCREASED OPEN SPACE PROPOSAL WOULD MEAN A POTENTIAL DECREASE IN THE AMOUNT OF UNITS ALLOWED. IN ADDITION, MIXED INCOME DEVELOPMENTS WOULD STILL HAVE TO PAY THE PARKLAND DEDICATION FEE.
ALTERNATIVE LANGUAGE TO MAXIMIZE AFFORDABLE HOUSING OPPORTUNITIES:	CERTIFIED AFFORDABLE MULTI-FAMILY PROJECTS WOULD BE SUBJECT TO CURRENT MULTI-FAMILY OPEN SPACE REGULATIONS.
OTHER HOUSING POLICY CONSIDERATIONS:	NOTE: THIS IS A PRELIMINARY AIS. A FINAL AIS WILL RECEIVE THE DIRECTOR'S SIGNATURE.
DATE PREPARED:	FEBRUARY 23, 2011
DIRECTOR'S SIGNATURE: _____ ELIZABETH A. SPENCER	