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ORDINANCE NO. 20080618-093

AN ORDINANCE AMENDING CITY CODE SECTION 25-2-773 RELATING TO DUPLEX HEIGHT REQUIREMENTS; AMENDING CITY CODE SECTION 25-2-1051 RELATING TO DESIGN STANDARDS AND MIXED USE; AMENDING CITY CODE SECTION 25-2-1406 RELATING TO NEIGHBORHOOD PLAN COMBINING DISTRICTS; AND AMENDING CITY CODE CHAPTER 25-2, SUBCHATER F RELATING TO RESIDENTIAL DESIGN AND COMPATABILITY.

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

PART 1. Subsections (B) and (D) of City Code Section 25-2-773 (*Duplex Residential Use*) are amended to read

§ 25-2-773 DUPLEX RESIDENTIAL USE.

(B) For a duplex residential use:

- (1) minimum lot area is 7,000 square feet,
- (2) minimum lot width is 50 feet,
- (3) maximum building cover is 40 percent;
- (4) maximum impervious cover is 45 percent, and
- (5) maximum building height is the lesser of

(a) 30 feet, or

(b) two stories, except that an attic or basement does not count as a story for purposes of this subsection if it satisfies the requirements for an exemption from gross floor area under Subsections 3 3 2 and 3 4 6 of Subchapter F (*Residential Design and Compatibility Standards*)

(D) The two dwelling units are subject to the following requirements

(1) The two units must have a common [wall-or] floor and ceiling or a common wall, which may be a common garage wall, that

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(a) extends for at least 50 percent of the maximum depth of the building, as measured from the front to the rear of the lot, and

(b) maintains a straight line for a minimum of four foot intervals or segments

(2) The two units must have a common roof ~~[, and]~~

(3) At least one of the two units must have a front porch that faces the front street and an entry to the dwelling unit, except that units located on a corner lot must each have a front porch that faces a separate street and an entry to the dwelling unit

(4) The two units may not be separated by a breezeway, carport, or other open building element

PART 2. Subsection (A) of City Code Section 25-2-1051 (*Applicability*) is amended to read

§ 25-2-1051 APPLICABILITY.

(A) Except as provided in Section 25-2-1052 (*Exceptions*) or another specific provision of this title, this article applies to the following uses

(1) A ~~(a)~~ use in a townhouse and condominium residence (SF-6) or less restrictive zoning district and to a civic use described in Subsection (B) that is located on property

~~(a)~~ ~~(1)~~ across the street from or adjoining property

~~(1)~~ ~~(a)~~ in an urban family residence (SF-5) or more restrictive zoning district,

~~(ii)~~ ~~(b)~~ on which a use permitted in an SF-5 or more restrictive zoning district is located, other than a dwelling permitted by Section 25-2-894 (*Accessory Uses For A Principal Commercial Use*), or

~~(iii)~~ ~~(c)~~ in a traditional neighborhood (TN) zoning district, or

~~(b)~~ ~~(2)~~ located 540 feet or less from property in

~~(1)~~ ~~(a)~~ an SF-5 or more restrictive zoning district,

~~(ii)~~ ~~(b)~~ a TN district, or

~~(iii)~~ ~~(c)~~ a development reserve (DR) zoning district.

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(2) A use listed in Subsections 12.2(K)-(Q) of Subchapter F (Residential Design and Compatibility Standards), if the owner has agreed to comply with the requirements of this article in a manner prescribed by the director under Subsection 13.3 of Subchapter F

PART 3. City Code Section 25-2-1406 (*Ordinance Requirements*) is amended to read

§ 25-2-1406 ORDINANCE REQUIREMENTS.

An ordinance zoning or rezoning property as a NP combining district.

(1) must prescribe the special uses described in Section 25-2-1403 (*Special Uses*) that are permitted in the district,

(2) must describe the location of each residential infill special use, neighborhood urban center special use, or neighborhood mixed use building special use, if any,

(3) may restrict the time of day during which a business in a neighborhood mixed use building special use may be open to the public,

(4) may restrict a corner store special use, cottage special use, secondary apartment special use, or urban home special use, if any, to a designated portion of the district,

(5) for a single-family residential use or a secondary apartment special use on an existing legal lot

(a) may reduce the required minimum lot area to 2,500 square feet,

(b) may reduce the required minimum lot width to 25 feet, and

(c) for a lot with an area of 4,000 square feet or less, may increase the maximum impervious coverage to 65 percent,

(6) may apply the requirements of Section 25-2-1602 (*Front Porch Setback*), Section 25-2-1603 (*Impervious Cover and Parking Placement Requirements*), or Section 25-2-1604 (*Garage Placement*) to the district or a designated portion of the district,

(7) may restrict front yard parking by including all or a portion of the district in the restricted parking area map described in Section 12-5-29 (*Front or Side Yard Parking*), and

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(8) may apply the requirements of Section 25-2-812(N) (*Mobile Food Establishments*) to the district or a designated portion of the district

(9) may modify the following requirements of Subchapter F (*Residential Design And Compatibility Standards*) for the district or a designated portion of the district.

(a) the maximum floor-to-area ratio and maximum square footage of gross floor area prescribed by Subchapter F (*Residential Design And Compatibility Standards*),

(b) the maximum linear feet of gables or dormers protruding from the setback plane,

(c) the height of the side and rear setback planes, and

(d) the minimum front yard setback requirement.

PART 4. Subsection 1 2 2 of Section 1.2 (*Applicability*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsections I and J and to add new Subsections K-Q to read

1.2. APPLICABILITY

1.2 2 Used for a

A Bed and breakfast (group 1) residential use,

B Bed and breakfast (group 2) residential use,

C Cottage special use,

D Duplex residential use,

E Secondary apartment special use,

F. Single-family attached residential use;

G Single-family residential use,

H Small lot single-family residential use;

I Two-family residential use, [øf]

J Urban home special use, [-]

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K Club or lodge,

L. Daycare services (general and limited),

M Family homes,

N Group homes (general and limited),

O. Condo residential,

P Retirement housing (small and large site); or

Q. Townhouse residential

PART 5. Subsections 1 3 1 and 1 3 3 of Section 1 3 (*Exceptions*) of City Code Chapter 25-2, Subchapter F are amended to read

1.3. Exceptions

1.3.1. This Subchapter does not apply to a lot zoned as a single-family residence small lot (SF-4A) district unless the lot is adjacent to property zoned as a single-family residence standard lot (SF-1), single-family residence standard lot (SF-2) district, or family residence (SF-3) district

1 3 3 This Subchapter does not apply to uses listed in subsections 1.2.2(K)-(Q) of Section 1 2 if an applicant has agreed, in a manner prescribed by the director, to comply with the requirements of Chapter 25-2, Article 10 (*Compatibility Standards*). ~~[The side-wall articulation requirement does not apply to new construction that is less than 2,000 square feet in gross floor area and that is less than 32 feet in height.]~~

PART 6. Subsection 1 4 1(A) of Section 1 4 1 (*Conflicting Provisions*) of City Code Chapter 25-2, Subchapter F is amended to read:

1.4. Conflicting Provisions

1 4 1 To the extent of conflict, this Subchapter supersedes:

A Section 25-1-21 (Definitions),

B [A] Section 25-2-492 (Site Development Regulations);

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C.[B] Section 25-2-555 (Family Residence (SF-3) District Regulations),

D.[C] Section 25-2-773 (Duplex Residential Use),

E.[D] Section 25-2-774 (Two-Family Residential Use),

F.[E] Section 25-2-778 (Front Yard Setback for Certain Residential Uses),

G.[F] Section 25-2-779 (Small Lot Single-Family Residential Uses); and

H.[G] Section 25-4-232 (Small Lot Subdivisions)

PART 7. Section 2 1 (*Maximum Development Permitted*) of City Code Chapter 25-2, Subchapter F is amended to read

2.1. MAXIMUM DEVELOPMENT PERMITTED

The maximum amount of development permitted on a property subject to this Subchapter is limited to the greater of 0.4 to 1.0 floor-to-area ratio or 2,300 square feet of gross floor area, as defined in Section 3.3. Floor-to-area ratio shall be measured using gross floor area as defined in Section 3.3, except that the lot area of a flag lot is calculated consistent with the requirements of Section 25-1-22 (*Measurements*)

PART 8. Subsection B of Section 2.3 (*Average Front Yard Setback*) of City Code Chapter 25-2, Subchapter F is amended to read

2.3. Average Front Yard Setback

B. Average Front Yard Setback. The following rules apply for purposes of the setback calculation required by paragraph A.2:

1. A front yard setback is the distance between the front lot line and the closest front exterior wall or building façade of the principal residential structure located on the lot. ~~[An average front yard setback is determined based on the setbacks of each principal residential structure that is built within 50 feet of its front lot line.]~~

2. Except as provided in paragraph 3[-], average front yard setback is determined using the front yard setback of the four principal residential structures that are: (a) built within fifty feet of the front lot line, and (b) closest to, and [the subject property] on the same side of the block, as the property subject to the setback required by this section ~~[shall be used in the calculation of average front~~

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~~yard setback. If there are less than four structures on the same side of the block, the lesser number of structures is used in the calculation]~~

3 If less than four structures satisfy the criteria in paragraph B 2, average front yard setback is calculated using the number of existing residential structures on the same side of the street block as the property subject to the setback required by this section. If there are no structures on the same side of the block, average front yard setback is calculated using the front yard setbacks of the four structures on the opposite side of the block that are closest to the [subject] property subject to the setback required by this section [and across the street are used in the calculation] If there are less than four structures on the opposite side of the block [across the street], the lesser number of structures is used in the calculation. See Figure 1.

PART 9. Section 2.4 (*Rear Yard Setback*) of City Code Chapter 25-2, Subchapter F is amended to read

2.4. REAR YARD SETBACK.

The principal structure shall comply with the rear yard setback prescribed by other provisions of this Code. All other structures shall comply with the rear yard setback provisions of this Code, but the minimum rear yard setback of a second dwelling unit may be reduced to five feet if the rear lot line is adjacent to an alley. See Figure 2.

PART 10. Subsections A, B, and D of Section 2.6 (*Setback Planes*) of City Code Chapter 25-2, Subchapter F are amended to read

2.6 SETBACK PLANES

A. Side Setback Plane

Except as provided in subsection ~~[B-]~~ D, an inwardly sloping 45-degree angle side setback plane begins at a horizontal line 15 feet directly above the side property line. The 15-foot height of the horizontal line is established for 40-foot deep portions of the lot beginning at the building line and extending to the rear of the lot, except that the last portion at the rear of the lot may be less than 40 feet deep. See Figures 3 through 5.

- 1 For the first portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines, the building line, and a line 40 feet from and parallel to the building line.

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- 2 For successive portions other than the last portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines and the appropriate two lines that are 40 feet apart and parallel to the building line
 - 3 For the last portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines, the appropriate line parallel to the building line, and the rear lot line

B. Rear Setback Plane

Except as provided in subsection D, an [An] inwardly sloping 45-degree angle rear setback plane begins at a horizontal line directly above the rear property line at the same elevation as the horizontal line for the last portion of the side setback plane established in paragraph A 3 See Figures 6 through 9

D. Side and Rear Setback Plane Exceptions for Existing One-Story Buildings.

1 Except as provided in paragraph 3 below, an applicant proposing to add a second story [This subsection applies] to a one-story building may choose either of the following side setback planes for the portion of the project that is within the building footprint [was] originally constructed, or permitted for [received a building permit for the] original construction, before October 1, 2006[;] [and that is remodeled to add a second story.]

a The side setback plane required under subsection A

b [1 For the portion of the construction that is within the footprint of the building that was originally constructed or received a building permit before October 1, 2006, the] The inwardly sloping 45-degree angle side setback plane that begins at a horizontal line directly above the outermost side wall at a height [that is] equal to the height of the first floor wall plate that was originally constructed or received a building permit before October 1, 2006, plus 10 and one-half [ten] feet. See Figure 12

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The wall plate is the lowest point of the existing first floor ceiling framing that intersects the exterior wall

- 2 Except as provided in paragraph 3 below, an applicant proposing to add a second story to a one-story building may choose either of the following rear setback planes for the portion of the project that is within the building footprint originally constructed, or permitted for original construction, before October 1, 2006

a The rear setback plane required under subsection B.

b An inwardly sloping 45-degree angle rear setback plane that begins at a horizontal line directly above the rear property line at a height equal to the height of the first floor wall plate that was originally constructed or received a building permit before October 1, 2006, plus 10 and one-half feet

- 3 The side setback plane required under subsection A, and the rear setback plane required under subsection B, apply to

a any ~~[For the]~~ portion of the proposed construction that is outside of the building footprint originally constructed, or ~~[received a building permit]~~ permitted for original construction, before October 1, 2006~~[, the side setback plane prescribed by subsection A above applies], and~~

b the entire project, if any portion of the proposed construction requires the removal or demolition of exterior walls

PART 11. Section 2.7 (*Side Wall Articulation*) of City Code Chapter 25-2, Subchapter F is amended to add new Subsections 2.7.1 and 2.7.2 to read:

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2.7. SIDE WALL ARTICULATION.

2 7 1 Except as provided in subsection 2 7 2, if a [A] side wall of a building [that] is more than 15 feet high and is an average distance of less than nine [15] feet [or less] from an interior lot line, the sidewall may not extend in an unbroken plane for more than 36 [32] feet along a side lot line without a sidewall articulation that meets the requirements of this section

A To break the plane, a sidewall articulation must

- 1 be perpendicular to the side property line, at least [wall articulation of not less than] four feet deep, and extend [for a distance] along the side property line for at least [of not less than] 10 feet, as shown in [is required See] Figures 18 through 20, [-]
- 2 extend the entire height of the first floor of an addition to, or remodel of, an existing one-story building.
- 3 extend the entire height of the second story of an addition to, or remodel of, a two or more story building;
- 4 extend to the height of the top floor of a newly constructed building, and
- 5 extend evenly upward for its entire height

B. A sidewall articulation cannot:

- 1 create patios or decks or be screened from view, or
- 2 serve as an eave or gutter

C Sidewall articulation required under this section may be satisfied by horizontal articulation, such that each story above the first story is setback further from the property line by at least nine feet and extends along the side property line for at least 10 feet

D For purposes of subsection 2 7 1, wall height

1. excludes side gables, and

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2 is measured from the lower of natural or finished grade adjacent to the structure up to the first floor wall plate, which is the lowest point of the existing first floor ceiling framing that intersects the exterior wall.

2.7.2 The requirements of this section do not apply to

A Any side of a structure that is adjacent to a commercial use, unless the commercial use is occupying a residential structure

B An addition to or remodel of an existing principal structure, or the construction of a new principal structure, provided that the resulting structure is less than 2,000 square feet in net building coverage and less than or equal to 32 feet in height

C An addition to or remodel of an existing second structure, or the construction of a new second structure, provided that the principal structure is exempt under subsection 2.7.2 B and the resulting second structure

1 does not exceed 550 square feet,

2. does not exceed the maximum height allowed in the base zoning district; and

3 is either detached from the principal structure or connected by a covered breezeway that is open on all sides, with a walkway of no more than six (6) feet in width that is covered by a roof of no more than eight (8) feet in width.

D The addition of a second story to an existing one-story structure if the addition is directly above a portion of the existing one-story structure that was originally constructed, or received a permit for construction, before October 1, 2006

E An extension of the second floor of an existing two-story structure, provided that the building footprint of the structure is not increased

PART 12. Subsection 2.8.1 of Section 2.8 (*Modifications by the Residential Design and Compatibility Commission*) of City Code Chapter 25-2, Subchapter F is amended to read

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2.8.1. Modifications that May be Approved. The Residential Design and Compatibility Commission may

- A Approve an increase of up to 25 percent in the
 - 1 Maximum floor-to-area ratio or maximum square footage of gross floor area,
 - 2 Maximum linear feet of gables or dormers protruding from the setback plane, or
- B Waive or modify the side wall articulation requirement of Section 2 7 (*Side Wall Articulation*)
- C In addition to modifications or waivers under subsections A and B of this section, the Residential Design and Compatibility Commission may waive the requirements of Section 2 6 (*Setback Planes*) for a subdivisions that meets the S M A R T Housing requirement in Section 25-1-703 (*Program Requirements*) if:
 - 1 The subdivision includes a minimum of 12 lots on at least one acre, and
 - 2 At least 40% of the units are reasonably priced, as provided in Section 25-1-703(C)-(D).

PART 13. Subsection 2 8 2(C) of Section 2 8 (*Modifications by the Residential Design and Compatibility Commission*) of City Code Chapter 25-2, Subchapter F is amended to read

- C. **Additional Procedures [Criteria] for Historic Properties.**
~~[The Residential Design and Compatibility Commission may not approve a modification for]~~
 - 1 If the proposed development of a local historic landmark or a "contributing structure," as defined in Section 25-3-351 (*Contributing Structure*), would require both a modification from the requirements of this Subchapter and a certificate of appropriateness under Section 25-11-241, the applicant must request a modification under this section prior to seeking a certificate of appropriateness. If the Residential Design and Compatibility Commission determines that the request is consistent with the

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approval criteria in subsection B of this section, it shall conditionally approve the modification contingent upon subsequent issuance of a certificate of appropriateness by the Historic Landmark Commission under Section 25-11-243. The applicant must include a copy of the approved modification with the application for a certificate of appropriateness. ~~[A local, state, or national historic landmark, if the modification would adversely impact the landmark's historic status,]~~

- 2 If both a modification from the requirements of this Subchapter and a non-binding recommendation from the Historic Landmark Commission are sought, the Residential Design and Compatibility Commission may not approve a modification for a structure located in the National Register Historic District before the Historic Landmark Commission issues its recommendation. ~~[A "contributing structure," as defined in Section 25-2-351 (Contributing Structure Defined), or a contributing structure in a National Register historic district, if the modification would adversely impact its status as a contributing structure, or~~
- ~~3 A property listed as Priority 1 or Priority 2 on the City's most current survey of historic assets, if the modification would adversely impact the property's architectural integrity or change its priority rating.]~~

PART 14. Section 3.3 (*Gross Floor Area*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsections 3.3.1 and 3.3.2, and to add new Subsections 3.3.3 and 3.3.4, to read

3.3. GROSS FLOOR AREA

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. ~~[has the meaning assigned by Section 25-1-21(Definitions), with the following modifications:~~

~~3.3.1 The following shall be included in the calculation of gross floor area.~~

~~A The portion of a second or third story of a building that is covered by a roof, including a porch, portico, breezeway, passageway, or corridor,~~

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~~B~~—A mezzanine or loft, and]

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 [C—The covered portion of a parking area, except for]

A.[1-] Up to 450 square feet of.

1.[a-] A detached rear parking area that is separated from the principal structure by not less than 10 feet, ~~[or]~~

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 ~~[b-]~~ A parking area that is open on two or more sides, if

1 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.[2-] Up to 200 square feet of

1. An ~~[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

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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 [3-3-2] Porches, basements, and attics that meet the [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 [It] 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[, and].

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,

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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

PART 15. Section 3 4 (*Height*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsection 3 4 1, and to add new a Subsection 3 4 6, to read:

3.4. HEIGHT

For purposes of this Subchapter, the HEIGHT of a building or setback plane shall be measured as follows:

3 4 1 Height shall be measured vertically from the average of the highest and lowest grades adjacent to the building to

A. For a flat roof, the highest point of the coping,

B For a mansard roof, the deck line;

C. For a pitched or hip roof, the gabled roof or dormer with the highest average height [the average height of the highest gable], or

D For other roof styles, the highest point of the building


3.4.6 The habitable portion of a basement that is below natural grade and the habitable portion of an attic do not count toward the number of stories for purposes of Section 25-2-773(B)(5) (*Duplex Residential Use*) if the area satisfies the requirements for an exemption from gross floor area under subsections 3 3 2 B-C of this Subchapter

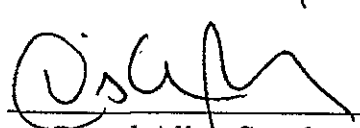
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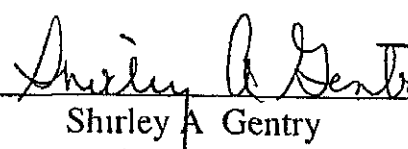
PART 16. The city council directs the city manager to conform the pictures in City Code Chapter 25-2, Subchapter F, to the code text amendments adopted by this ordinance See. Exhibit A (*Corrected Drawings to Replace Figures 12, 18, 19, and 20 in City Code Chapter 25-2, Subchapter F*)

PART 17. This ordinance takes effect on June 29, 2008.

PASSED AND APPROVED

_____, June 18, 2008 §
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 § _____ 
 Will Wynn
 Mayor

APPROVED:  _____
 David Allan Smith
 City Attorney

ATTEST:  _____
 Shirley A Gentry
 City Clerk

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ORDINANCE NO. 20060622-022

AN ORDINANCE AMENDING CHAPTER 2-1 OF THE CITY CODE TO ADD ARTICLE 53 RELATING TO THE RESIDENTIAL DESIGN AND COMPATIBILITY COMMISSION; ADDING SECTION 25-2-566 TO THE CITY CODE RELATING TO SPECIAL REQUIREMENTS FOR CERTAIN RESIDENTIAL DISTRICTS; AMENDING SECTION 25-2-773 OF THE CITY CODE RELATING TO DUPLEX RESIDENTIAL USE; AMENDING SECTIONS 25-2-963 AND 25-2-964 OF THE CITY CODE RELATING TO NONCOMPLYING STRUCTURES; AMENDING SECTION 25-2-1406 OF THE CITY CODE RELATING TO NEIGHBORHOOD PLAN COMBINING DISTRICTS; PROVIDING FOR AN ORGANIZATIONAL MEETING OF THE RESIDENTIAL DESIGN AND COMPATIBILITY COMMISSION; AND REPEALING ORDINANCE NUMBER 20060309-058 RELATING TO DEVELOPMENT REGULATIONS FOR CERTAIN SINGLE-FAMILY, SINGLE-FAMILY ATTACHED, TWO-FAMILY, SECONDARY APARTMENT, AND DUPLEX STRUCTURES.

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

PART 1. Chapter 2-1 (*Boards And Commissions*) of the City Code is amended to add Article 53 to read:

ARTICLE 53. RESIDENTIAL DESIGN AND COMPATIBILITY COMMISSION.

§ 2-1-531 CREATION; MEMBERSHIP.

- (A) The Residential Design and Compatibility Commission is created and composed of nine members appointed by the city council.
- (B) To obtain a broad range of community viewpoints, the commission shall be appointed from a diverse group of persons having knowledge of massing, scale, and compatibility issues in residential neighborhoods, and shall include:
 - (1) five residential design professionals; and
 - (2) four citizens at large.

§ 2-1-532 TERMS.

- (A) Each commission member shall be appointed to serve a two-year term.

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- (B) Five commission members shall be appointed to terms that expire on June 1 of even-numbered years and four commission members shall be appointed to terms that expire on June 1 of odd-numbered years.

§ 2-1-533 QUORUM.

Five members of the commission constitute a quorum for the conduct of business.

§ 2-1-534 DUTIES AND RESPONSIBILITIES.

The Residential Design and Compatibility Commission shall make determinations on requested modifications of certain residential design standards for specific developments, as prescribed by Section 25-2-566 (*Special Regulations For Certain Residential Districts*) of the City Code.

PART 2. Chapter 25-2 (*Zoning*) of the City Code is amended to add Section 25-2-566 to read:

§ 25-2-566 SPECIAL REGULATIONS FOR CERTAIN RESIDENTIAL DISTRICTS.

(A) Except as provided in Subsection (B), this section applies to property that is:

(1) within the area bounded by:

- (a) Highway 183 from Loop 360 to Ben White Boulevard;
- (b) Ben White Boulevard from Highway 183 to Loop 360;
- (c) Loop 360 from Ben White Boulevard to Loop 1;
- (d) Loop 1 from Loop 360 to the Colorado River;
- (e) the Colorado River from Loop 1 to Loop 360; and
- (f) Loop 360 from the Colorado River to Highway 183; and

(2) used for a:

- (a) bed and breakfast (group 1) residential use;
- (b) cottage special use;
- (c) duplex residential use;
- (d) secondary apartment special use;
- (e) single-family attached residential use;

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- (f) single-family residential use;
 - (g) small lot single-family residential use;
 - (h) two-family residential use; or
 - (i) urban home special use.

(B) This section does not apply to:

- (1) a lot designated as a single-family residence small lot (SF-4A) district unless the lot is adjacent to property designated as a single-family residence standard lot (SF-2) district or family residence (SF-3) district; or
- (2) the approximately 698.7 acres of land known as the Mueller Planned Unit Development, which was zoned as a planned unit development (PUD) district by Ordinance Number 040826-61.

(C) To the extent of conflict, this section supersedes:

- (1) Section 25-2-492 (*Site Development Regulations*);
- (2) Section 25-2-555 (*Family Residence (SF-3) District Regulations*);
- (3) Section 25-2-773 (*Duplex Residential Use*);
- (4) Section 25-2-774 (*Two-Family Residential Use*);
- (5) Section 25-2-778 (*Front Yard Setback For Certain Residential Uses*);
- (6) Section 25-2-779 (*Small Lot Single-Family Residential Uses*); and
- (7) Section 25-4-232 (*Small Lot Subdivisions*).

(D) To the extent of conflict, the following provisions supersede this section:

- (1) Section 25-2-1424 (*Urban Home Regulations*);
- (2) Section 25-2-1444 (*Cottage Regulations*);
- (3) Section 25-2-1463 (*Secondary Apartment Regulations*); or
- (4) the provisions of an ordinance designating property as a:
 - (a) neighborhood plan (NP) combining district;
 - (b) neighborhood conservation (NC) combining district; or
 - (c) historic area (HD) combining district.

(E) In this section, GROSS FLOOR AREA has the meaning assigned by Section 25-1-21 (*Definitions*), except:

(I) the term:

(a) includes:

- (i) the portion of a second or third story of a building that is covered by a roof, including a porch, portico, breezeway, passageway, or corridor;
- (ii) a mezzanine or loft; and
- (iii) the covered portion of a parking area, except for:
 - 1. up to 450 square feet of:
 - a. a detached rear parking area that is separated from the principal structure by not less than 10 feet; or
 - b. a parking area that is open on two or more sides, if it does not have habitable space above it; and
 - 2. up to 200 square feet of an attached parking area if it used to meet the minimum parking requirement; and

(b) excludes:

- (i) a ground floor porch, including a screened porch;
- (ii) a habitable portion of a building that is below grade if:
 - 1. it does not extend beyond the first story footprint; and
 - 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; and
- (iii) 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;

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4. it does not extend beyond the footprint of the floors below;
 5. it is the highest habitable portion of the building; and
 6. 50 percent or more of the area has a ceiling height of seven feet or less; and

~~(2) an area with a ceiling height greater than 15 feet is counted twice.~~

(F) This subsection prescribes height measurement for a building or setback plane.

- (1) In this subsection, NATURAL GRADE is the topography of a site before it is modified by moving earth, adding or removing fill, or installing a berm, retaining wall, or architectural or landscape feature. Natural grade is determined by reference to an on-ground survey, City-approved topographic map, or other information approved by the director.
- (2) The director may require an applicant to provide a third-party report that shows the natural grade of a site.
- (3) The height of a building or setback plane is measured from the lower of natural grade or finished grade, except the height is measured from finished grade if:
 - (a) the site's grade was legally modified before October 1, 2006; or
 - (b) the site's grade is modified to elevate it out of the 100-year floodplain.
- (4) The height of a building is measured vertically from the average of the highest and lowest grades adjacent to the building to:
 - (a) for a flat roof, the highest point of the coping;
 - (b) for a mansard roof, the deck line;
 - (c) for a pitched or hip roof, the average height of the highest gable;
 - (d) for other roof styles, the highest point of the building.
- (5) For a stepped or terraced building, the height of each segment is determined individually.

(G) Maximum building height is 32 feet. Section 25-2-531 (*Height Limit Exceptions*) does not apply, except for a chimney, vent, antenna, or energy conservation or production equipment or feature not designed for occupancy.

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- (H) Except for the principal structure, the minimum rear yard setback is five feet if the lot has a rear lot line adjacent to an alley.
- (I) This subsection prescribes minimum front yard setbacks.
- (1) In this subsection:
- (a) An average front yard setback is determined based on the setbacks of each principal residential structure that is built within 50 feet of its front lot line.
 - (b) Except as provided in Subparagraph (c), the four structures that are closest to the subject property and on the same side of the block are used in the calculation. If there are less than four structures on the same side of the block, the lesser number of structures is used in the calculation.
 - (c) If there are no structures on the same side of the block, the four structures that are closest to the subject property and across the street are used in the calculation. If there are less than four structures across the street, the lesser number is used in the calculation.
- (2) The minimum front yard setback is the lesser of:
- (a) the minimum front yard setback prescribed by the other provisions of this title; or
 - (b) the average front yard setback described in Paragraph (1), if an average may be determined under Paragraph (1).
- (J) This subsection applies to a side wall of a building if the side wall is more than 15 feet high and is an average distance of 15 feet or less from an interior lot line. The side wall may not extend in an unbroken plane for more than 32 feet along a side lot line. To break the plane, a perpendicular wall articulation of not less than four feet, for a distance along the side property line of not less than 10 feet, is required.
- (K) Development on a site is limited to the greater of 0.4 to 1 floor-to-area ratio or 2,300 square feet of gross floor area.
- (L) This subsection prescribes side and rear setback planes.
- (1) In this subsection, BUILDING LINE means a line that is parallel to the front lot line and that intersects the principal residential structure at the point where the structure is closest to the front lot line.

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(2) Except as provided in Paragraph (3), an inwardly sloping 45 degree angle side setback plane begins at a horizontal line 15 feet directly above the side property line. The 15-foot height of the horizontal line is established for 40-foot deep portions of the lot, beginning at the building line and extending to the rear of the lot, except that the last portion at the rear of the lot may be less than 40 feet deep.

(a) For the first portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines, the building line, and a line 40 feet from and parallel to the building line.

(b) For successive portions other than the last portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines and the appropriate two lines that are 40 feet apart and parallel to the building line.

(c) For the last portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines, the appropriate line parallel to the building line, and the rear lot line.

(3) This paragraph applies to a one-story building that was originally constructed or received a building permit for the original construction before October 1, 2006, and that is remodeled to add a second story. An inwardly sloping 45 degree angle side setback plane begins at a horizontal line directly above the outermost side wall at a height that is equal to the height of the first floor wall plate plus ten feet.

(4) An inwardly sloping 45 degree angle rear setback plane begins at a horizontal line directly above the rear property line at the same elevation as the horizontal line for the last portion of the side setback plane established in Paragraph (2)(c).

(5) A structure may not extend beyond a setback plane, except for:

(a) a structure authorized by the Residential Design and Compatibility Commission in accordance with Subsection (M);

(b) a roof overhang or eave, up to two feet beyond the envelope;

(c) a chimney, vent, antenna, or energy conservation or production equipment or feature not designed for occupancy; and

(d) either:

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- (i) a side gabled roof structure, with a total horizontal length of not more than 30 feet, measured from the front of the building along the intersection with the building envelope; or
 - (ii) gables or a shed roof, with a total horizontal length of not more than 18 feet on each side of the building, measured along the intersection with the building envelope; and dormers, with a total horizontal length of not more than 15 feet on each side of the building, measured along the intersection with the building envelope.

(M) This subsection provides for modification by the Residential Design and Compatibility Commission of certain requirements of this section for a proposed development.

(1) The Residential Design and Compatibility Commission may approve:

(a) an increase of up to 25 percent in the:

- (i) maximum floor-to-area ratio or maximum square footage of gross floor area;
- (ii) maximum linear feet of gables or dormers protruding from the setback plane;
- (iii) maximum side wall length before articulation is required; or
- (iv) maximum height of the side or rear setback plane; or

(b) a decrease of up to 25 percent in the minimum depth or length of a required wall articulation.

(2) A person may request a modification by filing an application with the director on a form provided by the director.

(3) Not later than the 14th day after an application is filed, the director shall:

(a) mail notice of the application to:

- (i) each notice owner of property immediately adjacent to the subject property;
- (ii) the appropriate neighborhood association, if any; and
- (iii) the neighborhood plan team, if any; and

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- (b) post notice of the application in accordance with Section 25-1-135 (*Posting Of Signs*).
 - (4) The Residential Design and Compatibility Commission may approve a modification if it determines that the proposed development is compatible in scale and bulk with the structures in the vicinity of the development. In making this determination, the commission shall consider:
 - (a) the recommendation of the neighborhood plan team, if any;
 - (b) the development's:
 - (i) compliance with neighborhood design guidelines, if any;
 - (ii) consistency with the streetscape of the properties in the vicinity;
 - (iii) consistency with the massing, scale, and proximity of structures located on either side of or behind the development;
 - (iv) impact on privacy of adjacent rear yards; and
 - (v) topography and lot shape; and
 - (c) for a development of an entire block, whether the development will have a negative impact on adjacent property.
 - (5) The Residential Design and Compatibility Commission may not approve a modification for:
 - (a) a local, state, or national historic landmark, if the modification would adversely impact the landmark's historic status;
 - (b) a "contributing structure", as defined in Section 25-2-351 (*Contributing Structure Defined*), if the modification would adversely impact its status as a contributing structure; or
 - (c) a property listed as Priority 1 or Priority 2 on the City's most current survey of historic assets, if the modification would adversely impact the property's architectural integrity or change its priority rating.
 - (6) An interested party may appeal the Residential Design and Compatibility Commission's decision to the council.
 - (7) This subsection does not prohibit the Board of Adjustment from granting a variance from a requirement of this section under 25-2-473 (*Variance Requirements*).

(N) Section 25-2-1406 (*Ordinance Requirements*) provides for city council modification of certain requirements of this section.

PART 3. Section 25-2-773 (*Duplex Residential Use*) of the City Code is amended to add Subsection (D) to read:

(D) The two dwelling units:

- (1) must have a common wall, which may be a common garage wall, for at least 50 percent of the maximum depth of the building;
- (2) must have a common roof; and
- (3) may not be separated by a breezeway, carport, or other open building element.

PART 4. Section 25-2-963 (*Modification And Maintenance Of Noncomplying Structures*) of the City Code is amended to read:

§ 25-2-963 MODIFICATION AND MAINTENANCE OF NONCOMPLYING STRUCTURES.

(A) Except as provided in Subsection (B) [~~of this section~~], a person may modify or maintain a noncomplying structure.

(B) Except as provided in Subsections (C) or [~~and~~] (D) [~~of this section~~], a person may not modify or maintain a noncomplying structure in a manner that increases the degree to which the structure violates a requirement that caused the structure to be noncomplying.

(C) This subsection applies to property other than that which is subject to Section 25-2-566 (*Special Regulations For Certain Residential Districts*).

(1) [~~(C)~~] A person may increase the height of a building that is a noncomplying structure based on a height requirement of this title if:

(a) [~~(1)~~] the increase is made to a portion of the building that does not exceed the existing maximum height of the building;

(b) [~~(2)~~] the increase does not exceed 15 percent of the existing maximum height of the building; and

(c) [~~(3)~~] after modification, the height of the modified portion of the building does not exceed the existing maximum height of the building.

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(2) ~~[(D)]~~ A person may modify a building that is a noncomplying structure based on a yard setback requirement of this title if:

(a) ~~[(4)]~~ the modified portion of the building does not extend further into the required yard setback than the existing noncomplying portion of the building; and

(b) ~~[(2)]~~ the additional length of a modified portion of the building does not exceed 25 feet measured from the existing building and parallel to the lot line.

(3) ~~[(E)]~~ Paragraph (2) ~~[Subsection (D)]~~ applies to each yard setback requirement with which the existing building does not comply.

(4) ~~[(F)]~~ A person may modify a noncomplying building once under Paragraph (1) ~~[Subsection (C)]~~ and once under Paragraph (2) ~~[Subsection (D) of this section]~~. This subsection ~~[section]~~ does not prohibit a person from modifying a building along more than one yard setback as part of a single project.

(D) This subsection applies to property that is subject to Section 25-2-566 (Special Regulations For Certain Residential Districts).

(1) A person may increase the height of a building that is a noncomplying structure based on a height requirement of this title if:

(a) the increase is made to a portion of the building that:

(i) does not exceed the existing maximum height of the building;
and

(ii) complies with the yard setback requirements of this title;

(b) the increase does not exceed 15 percent of the existing maximum height of the building; and

(c) after modification, the height of the modified portion of the building does not exceed the existing maximum height of the building.

(2) A person may modify a building that is a noncomplying structure based on a yard setback requirement of this title if:

(a) the modified portion of the building:

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- (i) does not extend further into the required yard setback and is not greater in height than the existing noncomplying portion of the building; and
 - (ii) complies with the height requirements of this title; and
 - (b) the additional length of a modified portion of the building does not exceed the lesser of 50 percent of the length of the noncomplying portion of the building or 25 feet, measured from the existing building and parallel to the lot line.
 - (3) Paragraph (2) applies to each yard setback requirement with which the existing building does not comply.
 - (4) A person may modify a noncomplying building once under Paragraph (1) and once under Paragraph (2). This subsection does not prohibit a person from modifying a building along more than one yard setback as part of a single project.

PART 5. Section 25-2-964 (*Restoration And Use Of Damaged Or Destroyed Noncomplying Structures*) of the City Code is amended to read:

§ 25-2-964 RESTORATION AND USE OF DAMAGED OR DESTROYED NONCOMPLYING STRUCTURES.

- (A) This subsection applies to property other than that which is subject to Section 25-2-566 (*Special Regulations For Certain Residential Districts*). A person may restore a damaged or destroyed noncomplying structure if the restoration begins not later than 12 months after the date the damage or destruction occurs.
- (B) This subsection applies to property that is subject to Section 25-2-566 (*Special Regulations For Certain Residential Districts*).
 - (1) A person may restore a noncomplying structure that is damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind if the restoration begins not later than 12 months after the date the damage or destruction occurs.
 - (2) Except as provided in Section 25-2-963(D) (*Modification And Maintenance Of Noncomplying Structures*):
 - (a) a structure restored under this section is limited to the same building footprint, gross floor area, and interior volume as the damaged or destroyed structure; and

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(b) a noncomplying portion of the structure may be restored only in the same location and to the same degree of noncompliance as the damaged or destroyed structure.

PART 6. Section 25-2-1406 (*Ordinance Requirements*) of the City Code is amended to read:

§ 25-2-1406 ORDINANCE REQUIREMENTS.

An ordinance zoning or rezoning property as a NP combining district:

- (1) must prescribe the special uses described in Section 25-2-1403 (Special Uses) that are permitted in the district;
- (2) must describe the location of each residential infill special use, neighborhood urban center special use, or neighborhood mixed use building special use, if any;
- (3) may restrict the time of day during which a business in a neighborhood mixed use building special use may be open to the public;
- (4) may restrict a corner store special use, cottage special use, secondary apartment special use, or urban home special use, if any, to a designated portion of the district;
- (5) for a single-family residential use or a secondary apartment special use on an existing legal lot:
 - (a) may reduce the required minimum lot area to 2,500 square feet;
 - (b) may reduce the required minimum lot width to 25 feet; and
 - (c) for a lot with an area of 4,000 square feet or less, may increase the maximum impervious coverage to 65 percent;
- (6) may apply the requirements of Section 25-2-1602 (*Front Porch Setback*), Section 25-2-1603 (*Impervious Cover and Parking Placement Requirements*), or Section 25-2-1604 (*Garage Placement*) to the district or a designated portion of the district; ~~and~~
- (7) may restrict front yard parking by including all or a portion of the district in the restricted parking area map described in Section 12-5-29 (*Front or Side Yard Parking*); and
- (8) may modify the following requirements of Section 25-2-566 (*Special Regulations For Certain Residential Districts*):

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- (a) the maximum floor-to-area ratio and maximum square footage of gross floor area prescribed by Section 25-2-566(K) (Special Regulations For Certain Residential Districts);
 - (b) the maximum linear feet of gables or dormers protruding from the setback plane;
 - (d) the height of the side and rear setback planes; and
 - (e) the minimum front yard setback requirement.

PART 7. The Residential Design and Compatibility Commission members shall conduct an organizational meeting as soon as practicable after their appointment. At the first meeting of the commission, the members shall draw lots to determine whose terms shall expire on October 1 of even-numbered years and whose terms shall expire on October 1 of odd-numbered years.

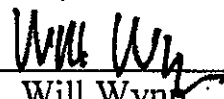
PART 8. Ordinance No. 20060309-058 is repealed, except that Part 6 (*Waiver*) is continued in effect and applies to a waiver application filed before October 1, 2006.

PART 9. This ordinance takes effect on October 1, 2006.

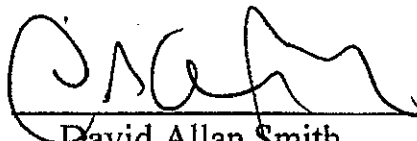
PASSED AND APPROVED

June 22, 2006


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Will Wynn
Mayor

APPROVED:


David Allan Smith
City Attorney

ATTEST:


Shirley A. Gentry
City Clerk