

ORDINANCE NO. 20080131-132

AN ORDINANCE AMENDING CHAPTER 25-2 OF THE CITY CODE TO PROVIDE DEVELOPMENT REGULATION INCENTIVES FOR AFFORDABLE HOUSING; AND ESTABLISHING A FEE FOR AFFORDABLE HOUSING AND COMMUNITY BENEFITS.

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

PART 1. Chapter 25-2 (*Zoning*) of the City Code is amended to add Section 25-2-566 to read:

§ 25-2-566 SPECIAL REQUIREMENTS FOR AFFORDABLE HOUSING IN CERTAIN SINGLE FAMILY DISTRICTS.

- (A) This section applies in a single family residence standard lot (SF-2) district or family residence (SF-3) district.
- (B) A development may comply with single-family residence small lot (SF-4A) district site development regulations if:
 - (1) the development is on three or more acres of previously unsubdivided land; and
 - (2) the director of the Neighborhood Housing and Community Development Department certifies that the development complies with the City's S.M.A.R.T. Housing Program.

PART 2. Chapter 25-2 (*Zoning*) of the City Code is amended to add Section 25-2-567 to read:

§ 25-2-567 SPECIAL REQUIREMENTS FOR AFFORDABLE HOUSING IN CERTAIN MULTIFAMILY DISTRICTS.

- (A) This section applies in a multifamily residence low density (MF-2) district, multifamily residence medium density (MF-3) district, multifamily residence moderate-high density (MF-4) district, or multifamily residence high density (MF-5) district on property that either has not been developed or that has been developed only with an agricultural use.
- (B) Except as provided in Subsection (C), a development may comply with multifamily residence highest density (MF-6) district site development regulations if the director of the Neighborhood Housing and Community

Development Department certifies that the development complies with the City's S.M.A.R.T. Housing Program, and:

- (1) for a rental development, ten percent of the residential units in the development are reserved as affordable for a minimum of 40 years following the issuance of a certificate of occupancy for rental by a household earning not more than 60 percent of the median family income for the Austin metropolitan statistical area; or
 - (2) for an owner-occupied development:
 - (a) five percent of the residential units in the development are reserved as affordable for a minimum of 99 years following the issuance of a certificate of occupancy for ownership and occupancy by a household earning not more than 80 percent of the median family income for the Austin metropolitan statistical area; and
 - (b) five percent of the residential units in the development are reserved as affordable for a minimum of 99 years following the issuance of a certificate of occupancy for ownership and occupancy by a household earning not more than 100 percent of the median family income for the Austin metropolitan statistical area.
- (C) Development under this section must comply with the height regulations established in other provisions of this code.

PART 3. Chapter 25-2 (*Zoning*) of the City Code is amended to add Section 25-2-586 to read:

§ 25-2-586 AFFORDABLE HOUSING INCENTIVES IN A CENTRAL BUSINESS DISTRICT (CBD) OR DOWNTOWN MIXED USE (DMU) ZONING DISTRICT.

- (A) This section applies to a residential, commercial, or a mixed use development that is located in a central business district (CBD) or, in the manner determined by the City Council in a zoning ordinance, in a downtown mixed use (DMU) zoning district.
- (B) In this section:
 - (1) **DESIGNATED HOUSING AREA** includes:
 - (a) the area within two miles of the intersection of Sixth Street and Congress Avenue; and

- (b) if a portion of a neighborhood planning area is within the area described in Subparagraph (a), the entire neighborhood planning area.

(2) CITY DEVELOPMENT FEES:

(a) means:

- (i) all City fees authorized for waiver under the S.M.A.R.T. Housing Program, including fees for capital recovery, subdivision application, zoning application, site plan application, and site plan inspection including environmental and wastewater inspection; and
- (ii) City fees for water meter, sewer tap, and right-of-way closure and licensing; and

(b) excludes parkland dedication fees.

(C) Development on a site may exceed the floor-area-ratio limitation of Section 25-2-492 (*Site Development Regulations*) and, in a DMU district may exceed the maximum height of the district as determined by the City Council, if the developer:

- (1) participates in the City's Great Streets Program;
- (2) substantially complies with the City's Design Guidelines, as determined by the Design Commission; and
- (3) provides affordable housing or community benefits by:
 - (a) providing affordable housing in ten percent or more of the gross floor area that exceeds the floor-area-ratio limitation; or
 - (b) for a residential use, paying into the Housing Assistance Fund 100 percent of the fee prescribed by Subsection (I) for each square foot of gross floor area that exceeds the floor-area-ratio limitation; or
 - (c) for a commercial or mixed use:
 - (i) paying into the Housing Assistance Fund 50 percent of the fee prescribed by Subsection (I) for each square foot of gross floor area that exceeds the floor-area-ratio limitation; and

(ii) paying into the Community Benefits Fund 50 percent of the fee prescribed by Subsection (I) for each square foot of gross floor area that exceeds the floor-area-ratio limitation.

(D) Subject to the limitation of Subsection (D)(2), the director shall waive all City development fees and expedite the processing of all City applications, permits, and approvals, including license agreements and site plan applications, if the requirements of this subsection are met.

(1) The developer must:

(a) provide the affordable housing or pay the fee prescribed by Subsection (C) at the time of the issuance of the certificate of occupancy; or

(b) provide affordable housing in five percent or more of the site's gross floor area; or

(c) for a residential use, pay into the Housing Assistance Fund 100 percent of the fee prescribed by Subsection (I) for each square foot for five percent of the site's gross floor area; or

(d) for a commercial or mixed use:

(i) pay into the Housing Assistance Fund 50 percent of the fee prescribed by Subsection (I) for each square foot for five percent of the site's gross floor area; and

(ii) pay into the Community Benefits Fund 50 percent of the fee prescribed by Subsection (I) for each square foot for five percent of the site's gross floor area.

(2) If the developer elects to pay a fee into the Housing Assistance Fund or Community Benefits Fund instead of providing affordable housing, the amount of City development fees that are waived may not exceed the amount of fees paid into the fund by the developer.

(E) This subsection prescribes the requirements for affordable housing under Subsections (C) and (D).

(1) The development must comply with the City's S.M.A.R.T. Housing Program.

(2) An owner-occupied unit must be available for occupancy for a period of not less than 99 years by an occupant whose gross household income

does not exceed 120 percent of the median family income for the Austin metropolitan statistical area.

(3) A rental unit must be available for occupancy for a period of not less than 40 years by an occupant whose gross household income does not exceed 80 percent of the median family income for the Austin metropolitan statistical area.

(4) The director may require the developer to execute an agreement, restrictive covenant, or other binding restriction on land use that preserves affordability for the required period.

(F) The director of the Austin Neighborhood Housing and Community Development Department may allocate money from the Housing Assistance Fund collected under Subsection (C) or (D) for the financing or production of affordable units in the designated housing area that meet the following criteria:

(1) owner-occupied units are reserved as affordable for a period of not less than 99 years by a family whose gross household income does not exceed 80 percent of the median family income for the Austin metropolitan statistical area; or

(2) renter-occupied units are reserved as affordable for a period of not less than 40 years by a family whose gross household income does not exceed 60 percent of the median family income for the Austin metropolitan statistical area.

(G) The Community Benefits Fund is created. The director of the Neighborhood Planning and Zoning Department may allocate money from the fund collected under Subsection (C) or (D) for programs in the designated housing area that serve one or more of the following purposes:

(1) child and elder care;

(2) open space;

(3) pedestrian connectivity;

(4) transit;

(5) green building;

(6) historic preservation;

(7) space for non-profit corporations;

- (8) public art;
- (9) cultural facilities;
- (10) sound mitigation;
- (11) live music venues; or
- (12) assistance for the homeless.

(H) In addition to the notice and public hearing requirements provided in Chapter 25-2, Subchapter B, Article 1, Division 3 (*Notice of Filing; Director's Report*) and Division 4 (*Public Hearing; Action*), the director of the Neighborhood Planning and Zoning Department shall schedule a zoning application submitted under Subsection (A) for a public hearing before the Design Commission for recommendation.

(I) The fee to be paid for each square foot of gross floor area required by Subsections (C) and (D) for the Housing Assistance Fund and the Community Benefits Fund is established by ordinance and adjusted annually in accordance with the Consumer Price Index all Urban Consumers, US City Average, All Items (1982-84 = 100), as published by the Bureau of Labor Statistics of the United States Department of Labor. The city manager shall annually determine the new fee amounts for each fiscal year, beginning October 1, 2008, and report the new fee amounts to the city council.

PART 4. Chapter 25-2 (*Zoning*) of the City Code is amended to add Section 25-2-780 to read:

§ 25-2-780 AFFORDABLE HOUSING.

(A) A provision in this section applies only if:

- (1) the director of the Neighborhood Housing and Community Development Department certifies that the development complies with the City's S.M.A.R.T. Housing Program; and
- (2) ten percent or more of the dwelling units are reserved for a period of not less than 20 years for rental or purchase by an occupant whose gross household income does not exceed 60 percent of the median family income for the Austin metropolitan statistical area.

(B) This subsection applies in a single family residence standard lot (SF-2) district or single family residence (SF-3) district.

- (1) The maximum impervious cover is 50 percent if the director of the Watershed Protection and Development Review Department determines that the development will not result in additional identifiable adverse flooding on other property.
 - (2) A noncomplying structure may be replaced with a new structure if the new structure does not increase the existing degree of noncompliance with yard setbacks.
- (C) This subsection applies to a duplex residential use.
- (1) The minimum lot area is 5,750 square feet.
 - (2) The maximum impervious cover is 50 percent if the director of the Watershed Protection and Development Review Department determines that the development will not result in additional identifiable adverse flooding on other property.
 - (3) A maximum of eight bedrooms are permitted.
- (D) This subsection applies to a two family residential use.
- (1) The minimum lot area is 5,750 square feet.
 - (2) The maximum impervious cover is 50 percent if the director of the Watershed Protection and Development Review Department determines that the development will not result in additional identifiable adverse flooding on other property.
 - (3) The second dwelling unit may not exceed a gross floor area of 850 square feet. All of the allowed gross floor area may be on the second story, if any. The gross floor area limitation does not apply to a lot with 7,000 or more square feet of area.
- (E) This subsection applies to a secondary apartment special use.
- (1) The maximum impervious cover is 50 percent if the director of the Watershed Protection and Development Review Department determines that the development will not result in additional identifiable adverse flooding on other property.
 - (2) The second dwelling unit may not exceed a gross floor area of 850 square feet. All of the allowed gross floor area may be on the second story, if any. The gross floor area limitation does not apply to a lot with 7,000 or more square feet of area.

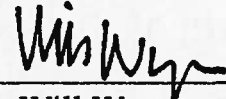
PART 5. The fee to be paid into the City funds for each square foot of gross floor area under City Code Section 25-2-586 (*Affordable Housing Incentives In A Central Business (CBD) Or Downtown Mixed Use (DMU) Zoning District*) is established as \$10.

PART 6. This ordinance takes effect on February 11, 2008.

PASSED AND APPROVED

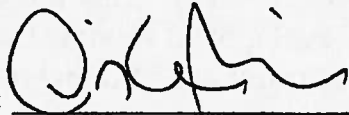
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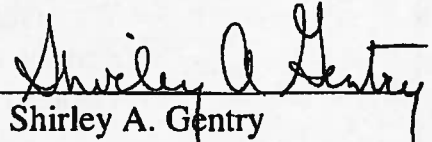
Will Wynn
Mayor

APPROVED:



David Allan Smith
City Attorney

ATTEST:



Shirley A. Gentry
City Clerk