

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2014-027 Residential Design and Compatibility Commission Dissolution

Description: Consider an ordinance amending City Code Title 25 to dissolve the Residential Design and Compatibility Commission.

Proposed Language: See attached draft ordinance.

Summary of proposed code changes:

- Dissolves the Residential Design and Compatibility Commission and associated duties.

Background: Initiated by Council Resolution 20141211-215.

In September 2014 the Residential Design and Compatibility Commission (RDCC) sent a memo (attached) to the City Council outlining the background of the Subchapter F (McMansion) regulations, RDCC history, and the declining caseload of RDCC, coming to the conclusion that the RDCC should be dissolved. City Council Resolution 20141211-215 initiated a code amendment to “eliminate the Residential Design and Compatibility Commission and the associated waiver process from regulations codified in Chapter 25-2, Subchapter F.”

Staff Recommendation: Staff recommends the proposed code amendment.

Board and Commission Actions

March 17, 2015: Recommended by the Codes and Ordinances Subcommittee on a 3-0 vote (Commissioners Chimenti and Zaragoza absent).

March 24, 2015: To be reviewed by the Planning Commission.

Council Action

May 7, 2015: A public hearing has been set.

Ordinance Number: NA

City Staff: Greg Dutton **Phone:** 974-3509 **Email:** Greg.Dutton@austintexas.gov

08/2

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTERS 2-1 AND 25-2 TO ELIMINATE THE RESIDENTIAL DESIGN AND COMPATIBILITY COMMISSION AND RELATED CODE PROVISIONS.

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

PART 1. City Code Chapter 2-1 (*City Boards*) is amended to repeal Section 2-1-167 (*Residential Design and Compatibility Commission*).

PART 2. City Code Chapter 25-2, Subchapter F (*Residential Design and Compatibility Standards*) is amended to amend Subsection (E) of Section 2.6 (*Setback Planes*) to read as follows:

E. Exceptions. A structure may not extend beyond a setback plane, except for:

~~1. A structure authorized by the Residential Design and Compatibility Commission in accordance with Section 2.8. below;~~

1[2]. A roof overhang or eave, up to two feet beyond the setback plane;

2[3]. A chimney, vent, antenna, or energy conservation or production equipment or feature not designed for occupancy; and

3[4]. Either:

a. 30-Foot Side-Gabled Roof Exception. A side-gabled roof structure on each side of the building, with a total horizontal length of not more than 30 feet, measured from the building line along the intersection with the side setback plane (See Figure 13.); or

b. Gables Plus Dormers Exception.

(i) 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 setback plane (See Figures 14 and 17.); and

(ii) Dormers, with a total horizontal length of not more than 15 feet on each side of the building, measured along the intersection with the setback plane. (See Figures 15 and 16.)

(8/3)

PART 3. City Code Chapter 25-2, Subchapter F (*Residential Design and Compatibility Standards*) is amended to repeal Section 2.8 (*Modifications by the Residential Design and Compatibility Commission*).

PART 4. This ordinance takes effect on _____, 2015.

PASSED AND APPROVED

_____, 2015

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Steve Adler
Mayor

APPROVED: _____
Anne Morgan
Acting City Attorney

ATTEST: _____
Jannette Goodall
City Clerk

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RESOLUTION NO. 20141211-215

WHEREAS, the "McMansion" ordinance, adopted by the City Council in 2006 and codified in City Code Chapter 25-2, Subchapter F, established the Residential Design and Compatibility Commission ("RDCC") to consider waivers from certain McMansion requirements in order to ensure a smooth transition to the new regulations; and

WHEREAS, from January 2013 through December 2014, the RDCC has been asked to consider very few cases:

- 12 were cases heard in 2013 and 14 cases heard in 2014; and
- four monthly meetings cancelled due to no cases in 2013 and two meetings canceled in 2014; and

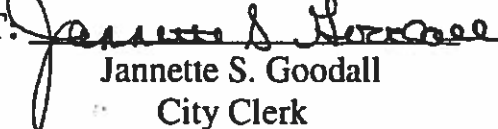
WHEREAS, due to the minimal case load, the associated overhead to maintain RDCC is an unnecessary use of resources, both of staff time and volunteer commissioners; and

WHEREAS, variances to the regulations is available through the Board of Adjustments process in cases of hardship; **NOW, THEREFORE,**

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

The City Council initiates amendments to City Code Chapters 2-1 and 25-2 to eliminate the Residential Design & Compatibility Commission and the associated waiver process from regulations codified in Chapter 25-2, Subchapter F. The City Manager is directed to process the ordinance and present it the City Council for consideration as soon as reasonably practicable.

ADOPTED: December 11, 2014

ATTEST: 
Jannette S. Goodall
City Clerk

September 25, 2014

Re: RDCC Recommendation regarding the future of the McMansion Ordinance

Mayor, Mayor Pro-Tem, and City Council,

As you all know, the McMansion effort was undertaken in 2006 to place limits on the mass and scale of single family development. At the time, the SF3 regulations permitted a building up to 35' tall and 5' from each side lot line, with no other limit to a building's size than impervious cover curtailing the size of the "box". After several months of intense work the City Council-appointed Citizens Task Force developed the McMansion Regulations. These were adopted as Subchapter F of the Land Development Code in June of 2006, with an implementation date of October 1, 2006. This time lag permitted the illustration of the code (by the City consultant, Clarion) and the opportunity for the City to train its permit staff. Since the regulations represented new concepts (FAR and TENT) to the residential permit parameters, the Council included a mandate that the ordinance would be revisited in 6 months, and also that a Commission would be established to provide relief from regulations due to unintended consequences of the new Ordinance, as well as being a vehicle to address unique development situations. The RDCC was originally established with 9 members, with the requirement that 5 of those members be 'design professionals'; the original intent was to allow projects slightly larger than allowed by the ordinance to be built so long as they exhibited noteworthy design, compatible in mass and scale with surrounding properties. To summarize:

MCMANSION:

- Undertaken in 2006 to place limits on the bulk of single family homes.
- At the time, SF3 regulations permitted a building up to 35' tall, 5' from each side lot line with no limit to bulk with the only limitations curtailing the size of the structure being impervious cover.
- McMansion Regulations adopted in June of 2006 with implementation date of October 1, 2006.
- Time lag allowed illustrations to be developed for the code.
- Also allowed opportunity for the city to train permit review staff.
- Council mandate that the code would be revisited in 6 months
- RDCC established to provide relief from regulations due to unintended consequences and/or unique development situations.

During the first year the RDCC saw up to 10 cases per meeting and dealt with various issues as the design community grappled with the new regulations, as these new rules occasionally clashed with existing building configurations. Per the City Council directive, the Task Force reconvened the next year to review implementation and revisit provisions of the ordinance that could be improved, or clarified, or eliminated. A productive process ensued, combining the experience of the Commission with staff review experience and additional, solicited, public input. Ultimately the reconvened Task Force recommended various, mostly minor, changes to the new code: to close already apparent loopholes and to alleviate minor issues that were arising often as a result of code language. This set of adjustments was approved by City Council and as a result Subchapter F was made much more workable. This set of changes, along with the design industry becoming more familiar with these new regulations, resulted both in a major reduction in the number of cases and requests for relief from the RDCC.

In 2008, the City changed the makeup of all Boards and Commissions reducing each to only 7 members. In addition, the requirement that the majority of the RDCC members were required to be designers was removed. This revision, in addition to use of the Board of Adjustment application as a prototype for appeal to the Commission, made our

waiver request appear to be based upon hardship, while it really was never meant to be, nor was our role to replace the Board of Adjustment for hardship cases. The design focus as rationale for latitude from the requirements of the ordinance was lost, especially for applicants who have been required to follow the BoA application. More than two years ago the RDCC requested that staff revise the application to better reflect the role of the RDCC per the LDC and to make the application process less onerous for all individuals; unfortunately, the rule-changing process extended over two years, and has only recently resulted in an application appropriate to the charge of the RDCC.

Finally, over the past years since the update of the ordinance, the number of cases seen by the RDCC on an annual basis has dropped significantly, to an average of under one per month. This lack of caseload indicates two things: 1) that the revisions made in 2008 alleviated many issues with the rules in general and, 2) that the design community has become used to design within the constraints of the regulations.

RDCC History:

- Established with 9 members with the requirement that 5 members be design professionals.
- Consistent with intent to provide allowance for projects that exhibited exemplary design.
- During the first months RDCC heard up to 10 cases per meeting.
- RDCC considered various issues as design community grappled with the new regulations.
- These new rules sometimes clashed with existing building configurations.
- The year following, Task Force reconvened to remedy aspects of the Ordinance which were deemed either onerous to comply or in need of clarification.
- Process combined experience of the RDCC with staff review experience and public input.
- Task Force recommended various minor changes to the Ordinance to close loopholes and to alleviate common issues.
- These changes resulted in a major reduction in the number of cases for RDCC.
- Application for RDCC Waiver request updated.
- The current caseload has dropped significantly; we feel this indicates two things:
 - The revisions made in 2008 alleviated undue hardship from the rules.
 - The design community's familiarity with the regulations.

In summary, we believe that the ordinance is fully functioning, subject to minor revisions which we would recommend in concert with city staff, and that it should be left relatively intact and remain as a part of the LDC rewrite. City staff can likely attest to the fact that the McMansion regulations are well-understood by the design community, and looking back at some of the buildings that triggered this effort in 2006, to lose this initiative and abandon the significant public involvement which resulted in it would reverse the great progress made to stabilize the quality of life and the affordability of Austin's central city neighborhoods.

To conclude, while the Ordinance itself should be maintained, we believe the continued existence of the RDCC is no longer necessary. Many of the few cases of the last two years have been the result of poor planning or hardship, and are of a nature that is more appropriately addressed by the Board of Adjustment. We wish to wholeheartedly support the continuation of the McMansion regulations, we also believe the RDCC could be dissolved at this point and City resources better applied elsewhere.

On this note, one significant downside to this action would be the loss of cooperation between residential permitting staff and a Commission with a residential focus. With a narrow mandate, such as the RDCC has, it cannot address the more pressing issues of livability of our neighborhoods - but we suggest it might be reinvented as a "Neighborhood Planning Commission" to address the planning process, codes and tools available and the new issues

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that will arise as development competes with livability in our rapidly growing inner city. Current efforts to address code enforcement, overdevelopment, over-occupancy of single family buildings, and new neighborhood infill efforts all support the concept of establishing a Neighborhood Conservation Commission with a broader mission than RDCC size waivers.

CONCLUSION:

- The code is fully functioning subject to minor revisions recommended in concert with city staff and should be left intact as a part of the LDC revisions currently being undertaken.
- The need for the ordinance – a restraint on sheer size in a neighborhood context – is not the same as and should not be confused with densification; the effort, initiative, and the public involvement in making this code a reality have gone a long way to stabilize the character of Austin's central city neighborhoods.
- The McMansion regulations are well-understood by the design community.
- The Ordinance is essential to protect Austin's unique central city neighborhoods.
- It is a qualified success which has gone far to preserve the character of these neighborhoods while allowing a continued renewal consistent with Austin's larger objectives of sustainable growth and densification.
- We suggest the RDCC be dissolved before the end of 2014.
- As a result of the work of the commission over the last years, we find a need for and hereby recommend the creation of a "Neighborhood Conservation Commission" to address broader issues of densification and infill.

Finally, as the LDC effort progresses, we at the RDCC will endeavor to identify specific items that we believe will benefit from revision, and will convey those items to City Staff, to the Council and to the LDC team.

Please do not hesitate to contact us if there are any questions.

Respectfully,

William Burkhardt, AIA
Chair, RDCC

Karen McGraw, AIA
Vice Chair, RDCC