

ORDINANCE NO. 20231207-001

AN ORDINANCE AMENDING CITY CODE TITLE 25 (LAND DEVELOPMENT) RELATING TO DWELLING UNITS AND OCCUPANCY LIMITS.

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

PART 1. City Code Section 25-1-21 (*Definitions*) is amended to add a new definition for “Tiny Home” and to renumber the remaining definitions accordingly.

(122) TINY HOME means a dwelling unit that is 400 square feet or less in floor area excluding loft space.

PART 2. Subsection (B) of City Code Section 25-2-3 (*Residential Uses Described*) is amended to amend the descriptions for “Group Residential” and “Multifamily” uses; to rename “Two-Family Residential” use; and to add a new “Three-Unit Residential” use as follows:

- (5) GROUP RESIDENTIAL use is the use of a site for occupancy by 16 or more adults and a third party prepares or provides food for the occupants [a group of more than six persons who are not a family,] on a weekly or longer basis. This use includes fraternity and sorority houses, dormitories, residence halls, and boarding houses.
- (7) MULTIFAMILY RESIDENTIAL use is the use of a site for four [three] or more dwelling units, within one or more buildings, and includes condominium residential use.
- (15) THREE-UNIT RESIDENTIAL use is the use of a lot for three dwelling units other than a mobile home.
- (16) TWO-UNIT [FAMILY] RESIDENTIAL use is the use of a lot for two dwelling units, each in a separate building, other than a mobile home.

PART 3. City Code Section 25-2-6 (*Civic Uses Described*) is amended to delete “Family Home”, “Group Home, Class I (General)”, “Group Home, Class I (Limited)”, and “Group Home, Class II” uses; and to renumber the remaining uses accordingly.

PART 4. The table in City Code Section 25-2-491 (*Permitted, Conditional, and Prohibited Uses*) is amended to delete “Family Home”, “Group Home, Class I (General)”, “Group Home, Class I (Limited)”, and “Group Home, Class II” uses from the table; to rename “Two-Family Residential” use; to add additional base districts where “Duplex” use and “Two-Unit Residential” use are allowed; to add “Three-Unit Residential” use to the table; and to make “Three-Unit Residential” use a permitted use in certain base zoning districts:

Residential Uses	SF-1	SF-2	SF-3
Duplex Residential	<u>P</u>	<u>P</u>	P
Two-<u>Unit</u> [Family] Residential	<u>P</u>	<u>P</u>	P
<u>Three-Unit Residential</u>	<u>P</u>	<u>P</u>	<u>P</u>

PART 5. The table in City Code Section 25-2-492 (*Site Development Regulations*) is amended to change the maximum number of dwelling units per lot in certain base zoning districts; and to delete footnotes for SF-1 and SF-3 zoning districts.

	SF-1^[3]	SF-2	SF-3
Maximum Dwelling Units Per Lot	<u>3</u> [+]	<u>3</u> [+]	<u>3</u> ^[2]

PART 6. City Code Section 25-2-511 (*Dwelling Unit Occupancy Limit*) is repealed.

PART 7. Subsection (D) of City Code Section 25-2-555 (*Family Residence (SF-3) District Regulations*) is deleted.

PART 8. City Code Section 25-2-773 (*Duplex Residential Use*) is repealed and replaced to read as follows:

§ 25-2-773 DUPLEX, TWO-UNIT, AND THREE-UNIT RESIDENTIAL USES.

- (A) To the extent of conflict, this section supersedes the base zoning district regulations.

- (B) For a duplex, two-unit, and three-unit residential use:
- (1) minimum lot area is 5,750 square feet;
 - (2) minimum front yard setback is 15 feet;
 - (3) minimum rear yard setback is:
 - (a) the base zoning district minimum rear yard setback; or
 - (b) five feet when the lot is adjacent to:
 - (i) an alley; or
 - (ii) another lot with a use that is permitted in a multifamily base zoning district or less restrictive base zoning district;
 - (4) minimum street-side yard setback for a lot located on a corner and:
 - (a) on a Level 1 street is the greater of five feet from the property line or 10 feet from curb, or in the absence of curbs, from the edge of the pavement; or
 - (b) on a Level 2, Level 3, or Level 4 street is 10 feet from the property line;
 - (5) minimum number of street-facing entrances is one;
 - (6) maximum building coverage is 40 percent; and
 - (7) maximum impervious cover is 45 percent.
- (C) Design Standards Applicable to Duplex, Two-Unit, and Three-Unit Residential Use.
- (1) Porches.
 - (a) A porch that is open on three sides may project into the front yard and include a roof.
 - (b) A porch that projects into the front yard must be at least 15 feet from the front lot line.

- (c) A porch roof or overhang must be at least 13 feet from the front lot line.
- (2) Impervious Cover and Parking Placement.
- (a) Impervious cover in a front yard may not exceed 40 percent.
 - (b) The director may waive front yard impervious cover limitations if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.
 - (c) Not more than four parking spaces may be located in the front street yard, or for a corner lot, not more than four parking spaces may be located in the front street yard and side street yard combined.
- (3) Garage Placement.
- (a) In this subdivision,
 - (i) **BUILDING FAÇADE** means the front-facing exterior wall or walls of the first floor of the residential structure closest to the primary street, and the term excludes the building façade of the portion of that structure designed or used as a parking structure. Projections from front-facing exterior walls, including but not limited to eaves, chimneys, porches, stoops, box or bay windows, and other similar features as determined by the building official, are not considered part of the building façade.
 - (ii) **PARKING STRUCTURE** means an attached or detached garage or carport.
 - (b) A parking structure may not be closer to the front lot line than the front-most exterior wall of the first floor of the building façade.
 - (c) If a parking structure with an entrance that faces a front yard abutting public right-of-way is less than 20 feet behind the building façade, the width of the parking structure may not exceed the width of the building façade as measured parallel to the front lot line.

- (D) Short-term rental use.
- (1) This subsection applies to a two-residential use constructed after October 1, 2015, and to a duplex use constructed after December 7, 2023.
 - (2) One dwelling unit in a duplex or two-unit residential use may not be used as a short-term rental for more than 30 days in a calendar year.
- (E) This subsection applies to the area established in Subsection 1.2.1 of Chapter 25-2, Subchapter F (*Residential Design and Compatibility Standards*).
- (1) In this subsection,
 - (a) EXISTING DWELLING UNIT means a dwelling unit that is:
 - (i) legally permitted and occupied before December 7, 2023; or
 - (ii) described in an application for a residential permit that was submitted on or before December 7, 2023.
 - (b) GROSS FLOOR AREA means the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls, except as provided in this subsection.
 - (2) Gross Floor Area Exclusions.
 - (a) For a property that includes an existing dwelling unit that was constructed on or before December 31, 1960, the property owner may exclude the preserved square footage from the gross floor area if the requirements in Subsection (F) are met.
 - (b) For a property that includes an existing dwelling unit that was constructed on or after January 1, 1961, and is at least 20 years old, the property owner may exclude the preserved square footage from the gross floor area if the requirements in Subsection (F) are met.
 - (3) Floor-to-area ratio for a duplex or two-unit residential use.
 - (a) The maximum floor-to-area ratio for the site is the greater of 0.55 or 3,200 square feet.

- (b) Except for an existing dwelling unit, a dwelling unit may not exceed the greater of 0.4 or 2,300 square feet.
- (4) Floor-to-area ratio for three-unit residential use.
 - (a) The maximum floor-to-area ratio for the site is the greater of 0.65 or 4,350 square feet.
 - (b) Except for an existing dwelling unit, a dwelling unit may not exceed the greater of 0.4 or 2,300 square feet.
 - (c) Except for two existing dwelling units, two dwelling units may not exceed the greater of 0.55 or 3,200 square feet.
- (F) Preserving Existing Dwelling Units. This subsection applies to an applicant who chooses to preserve an existing dwelling unit and wants the preserved square footage excluded from gross floor area as described in Subsection (E).
 - (1) General.
 - (a) In order to exclude the preserved square footage from the gross floor area, an applicant must comply with the requirements in this subsection and the rules adopted by the building official.
 - (b) An applicant must submit a request on a form approved by the building official and include all of the information required by the building official.
 - (c) The building official may adopt requirements for administering and enforcing this subsection. Because this program includes preserving existing dwelling units, the building official's requirements should incorporate the historic preservation officer's feedback as needed.
 - (2) If the existing dwelling unit was constructed on or before December 31, 1960, the following applies.
 - (a) The property owner must preserve at least 50 percent of the existing dwelling unit and 100 percent of the street-facing façade.
 - (b) The property owner must limit alterations and remodels to the existing dwelling unit as described in this paragraph.

- (i) For a structure with a side-gabled, cross-gabled, hipped, or pyramidal roof form, the property owner must limit remodeling and alterations to the area behind the existing dwelling unit's roof ridgeline or peak.
- (ii) For a structure with a front-gabled, shed roof or flat roof form, the property owner must limit remodeling and alterations to the lesser of 15 feet from the front façade of the existing dwelling unit or one-half of the width of the front wall of the existing dwelling unit.
- (c) If the development requires a 15-foot clearance on the side of the existing dwelling unit to build other allowable dwelling units, an existing or converted carport or garage may be altered or removed to provide the clearance.
- (d) If the property is designated as a historic landmark or located within a historic district, the Historic Design Standards or applicable design standards apply and control over this subsection.
- (3) If the existing dwelling unit was constructed on or after January 1, 1961, and is at least 20 years old, the property owner must preserve at least 50 percent of the existing dwelling unit.

PART 9. City Code Section 25-2-774 (*Two-Family Residential Use*) is repealed.

PART 10. Subsection (B) of City Code Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*) is amended to read as follows:

- (B) A short-term rental use under this section may not:
 - (1) include the rental of less than an entire dwelling unit, unless all of the following conditions are met:
 - (a) a partial unit must at a minimum include the exclusive use of a sleeping room and shared use of a full bathroom;
 - (b) the owner is generally present at the licensed short-term rental property for the duration of any short-term rental of a partial unit;
 - (c) not more than one partial unit at the property is simultaneously rented for any period less than 30 consecutive days; and

- (d) rental of the partial unit is limited to a single party of individuals;
- (2) operate without a license as required by Section 25-2-791 (*License Requirements*);
- (3) operate without providing notification to renters as required by Section 25-2-792 (*Notification Requirements*); or
- (4) include a dwelling unit in a duplex or two-unit residential as described in Section 25-2-773(D) [~~secondary dwelling unit~~] or secondary apartment except as provided by Section [~~25-2-774(C)(6) (Two Family Residential Use) and~~] 25-2-1463(C)(6) (*Secondary Apartment Regulations*).

PART 11. Subsection (B) of City Code Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*) is amended to read as follows:

(B) A short-term rental use under this section may not:

- (1) include the rental of less than an entire dwelling unit;
- (2) operate without a license as required by Section 25-2-791 (*License Requirements*);
- (3) operate without providing notification to renters as required by Section 25-2-792 (*Notification Requirements*); or
- (4) include a dwelling unit in a duplex or two-unit residential as described in Section 25-2-773(D) [~~secondary dwelling unit~~] or secondary apartment except as provided by Section [~~25-2-774(C)(6) (Two Family Residential Use) and~~] 25-2-1463(C)(6) (*Secondary Apartment Regulations*).

PART 12. City Code Section 25-2-841 (*Group and Family Homes*) is deleted.

PART 13. Subsection (C) of City Code Section 25-2-893 (*Accessory Uses for a Principal Residential Use*) is amended to read as follows:

(C) The following are permitted as accessory uses:

- (1) recreational activities and recreational facilities for use by residents;
- (2) religious study meetings;

- (3) playhouses, patios, cabanas, porches, gazebos, and household storage buildings;
 - (4) radio and television receiving antenna and dish-type satellite receivers;
 - (5) solar collectors;
 - (6) home occupations that comply with Section 25-2-900 (*Home Occupations*);
 - (7) on-site sales as authorized by Section 25-2-902~~[1]~~ (*Residential Tours*) or Section 25-2-903~~[2]~~ (*Garage Sales*);
 - (8) the keeping of dogs, cats, and similar small animals as household pets; and
 - ~~(9) a single accessory apartment that complies with the requirements of Section 25-2-901 (Accessory Apartments); and]~~
- (9 ~~[10]~~) [a] child care services (limited) use.

PART 14. Subsections (D) and (E) of City Code Section 25-2-893 (*Accessory Uses for a Principal Residential Use*) are deleted and the remaining subsections are re-lettered accordingly.

PART 15. City Code Section 25-2-901 (*Accessory Apartments*) is repealed.

PART 16. Subsection 1.2.2 of Section 1.2 (*Applicability*) in Subchapter F (*Residential Design and Compatibility Standards*) of City Code Chapter 25-2 (*Zoning*) is amended to remove “Duplex Residential use”, “Two-Family Residential use”, “Family Homes”, and “Group Homes (General and Limited)” and to re-letter the remaining uses accordingly.

PART 17. Subsections (A) and (C) of City Code Section 25-2-778 (*Front Yard Setback for Certain Residential Uses*) are amended to read:

- (A) This section applies to a single-family residential use~~[, duplex residential use, or two-family residential use]~~.
- (C) In making a determination under Subsection (D) or (E), only a side lot with a single-family residential use~~[, duplex residential use, or two-family residential use]~~ is considered.

PART 18. City Code Title 25 (*Land Development*) is amended to replace all references to “Section 25-2-773” (*Duplex Residential Use*) and “Section 25-2-774 (*Two-Family Residential Use*)” with “Section 25-2-773 (*Duplex, Two-Unit and Three-Unit Residential Uses*)”.

PART 19. Annual Impact Report. The City Manager is directed to present a report to City Council on the impact and outcomes of the Home Ownership for Middle-income Empowerment (HOME) Initiative. The report shall analyze the impacts and outcomes of the HOME initiative in the context of the city’s infrastructure, housing stock, affordability (including other affordability tools utilized by the City), and climate goals. The report shall, at a minimum, include or address the following:

- (A) Data metrics from enacting of the HOME Initiative including:
 - (1) The number of permits applications applied for single family homes, single family, two-unit, duplex, three-unit, and tiny homes;
 - (2) The number of permits requested under the Preservation Bonus program. Data presented on the Preservation program shall include:
 - (a) The number of developments utilizing the FAR exemption;
 - (b) The average percentage of preservation of the original structure; and
 - (c) Area where the Preservation Bonus is most utilized;
 - (3) Number of demolitions permits submitted after the enactment of this ordinance;
 - (4) Housing market analysis on the impact of HOME, including but not limited to market prices for single family, two-unit, duplex, three-unit, and tiny homes, the median home sale price, and any other appropriate factors; and
 - (5) Mean and median measures of gross floor area, floor to area ratio, and impervious cover, the number of units falling under different gross floor area ranges, and any other related metrics identified by staff.

- (B) To better understand the geographical impact of the HOME ordinance, the City Manager shall include the following:
- (1) The number of units built within a half-mile of current and future transit corridors;
 - (2) The number of units built by council district;
 - (3) The number of units completed under the preservation and sustainability bonus;
 - (4) The number of units completed under any density bonus program or other affordability tool utilized by the city to create more affordable housing; and
 - (5) The number and types of units built in, flash flood zones, FEMA identified flood risk areas and areas identified as high-risk areas in the Atlas 14.
- (C) The report shall include an analysis of the HOME Initiative's impact on displacement of communities of color. Data shall include:
- (1) Demographic information including or related to the Uprooted characteristics of vulnerability for the population in households by census tract compared to years prior;
 - (2) The number of units constructed in historically low-income neighborhoods;
 - (3) The number of units constructed for rental purposes; and
 - (4) The number of newly constructed units that are associated with short-term rental license applications.
- (D) The report shall provide impact analysis on our current infrastructure, including but not limited to:
- (1) Water, wastewater, stormwater and drainage capacity;
 - (2) Austin Resource Recovery infrastructures;
 - (3) Demands for Austin energy electrical supply;

- (4) Traffic infrastructure including but not limited to; and
 - (a) Sidewalks and curb management;
 - (b) Parking capacity; and
 - (c) Traffic impact analysis on highly impacted areas.
- (E) The report shall address the environmental impact on:
 - (1) The City's tree canopy;
 - (2) Impervious cover; and
 - (3) Any environmental preservation strategies adopted by council.
- (F) The report shall consider the Austin Climate Equity Plan, Water Forward, Strategic Housing Blueprint and the Austin Strategic Mobility Plan when providing impact analysis.
- (G) The report shall include a comparison of the aforementioned data metrics, as far as is practicable, up to 3 years prior to the enactment of HOME.
- (H) The comprehensive analysis may include other impacts of the ordinance or unintended consequences not described in this part.
- (I) The City Manager is directed to provide a report on Section A at six months after the implementation of the HOME ordinance. Further, the City Manager is directed to provide a full report twelve months and eighteen months after the implementation and, thereafter, an annual report.

PART 20. Additional Direction.

- (A) As part of these changes, the Law Department recommended removing short-term rental limitations specific to two-unit residential use so that the City Manager can propose, and City Council can consider changes to short-term rental regulations using a holistic approach. Therefore, the City Manager is directed to continue working on a proposal to regulate short-term rentals with particular focus on the changes adopted in this ordinance, and to bring back the proposed holistic changes when they are ready.

(B) The City Manager is directed to provide recommendations by March 21, 2024, that will:

- (1) Preserve trees or other natural features, and mitigate flood plain areas by allowing for alternative equivalent compliance and administrative modifications for single-family developments that will be developed:
 - (a) with two or more dwelling units per lot; and
 - (b) on a lot created by subdividing an existing standard-size single family lot;
- (2) Explore gaps in tree planting requirements;
- (3) Promote additional tree planting for future development;
- (4) Explore opportunities to incentivize protection of non-regulated trees; and
- (5) Explore opportunities to incentivize protection of trees in or near setback areas.

PART 21. This ordinance takes effect on December 18, 2023. This ordinance applies only to an application filed on or after February 5, 2024.

PASSED AND APPROVED

December 7, 2023

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§
§ *Kirk Watson*

Kirk Watson
Mayor

APPROVED: *Al*
Anne L. Morgan
City Attorney

ATTEST: *Stephanie Hael for*
Myrna Rios
City Clerk