

Special Minimum Building Line Requirement Area

Amend Section 42-163 to read as follows:

Sec. 42-163. Preservation of building lines.

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(a) To preserve the building line character of existing blockfaces in residential neighborhoods in urban areas that do not have building lines established by deed restrictions, the building line requirement may be established pursuant to this section through the creation of a special building line requirement area, and a special building line requirement so created will prevail over any more lenient building line requirement established by this article. A blockface qualifies for establishment of a special building line requirement pursuant to this section unless all lots on the blockface are subject to a deed restriction establishing a uniform front building line for the blockface.

(b) The establishment of a special building line requirement area shall be initiated by application to the director in the form prescribed by the department. The application shall include the following:

(1) The proposed boundaries of the special building line requirement area, which shall conform to the rules of item (g)(1) of this section.

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(3) A map or sketch showing the address and land use for all lots within the proposed special building line requirement area;

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(4) Data for each lot within the proposed special building line requirement area showing the distance from the front property line to each building on the lot;

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(5) A petition signed by at least one owner of property proposed to be included within the special building line requirement area; and

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(6) Evidence of support from the owners of property of each blockface within the proposed special building line requirement area.

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(c) The director shall initially review each application for the creation of a special building line requirement area to determine whether it is complete and shall indicate the date on which the application was determined to be complete. The director shall return an incomplete application with an explanation of the deficiencies. Within ten days after determining that an application for the creation of a special building line requirement area is complete, the director shall give notice of the application for the creation of a special building line requirement to the owners of property within the proposed special building line requirement area as shown on the most recent tax rolls for the county in which the proposed area is located. Notice shall be given by letter deposited into the United States postal service, postage paid. Notice shall also be given

by signs placed in at least one location on each blockface within the proposed special building line requirement area. The director shall approve an alternative to the number and location of signs required by this subsection in excess of ten upon determining that the alternative will provide maximum visibility and obtain the objectives of this section without unduly burdening the applicant. The signs shall conform to the specifications prescribed by the director and shall be posted by the applicant.

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(d) A property owner within the proposed special building line requirement area may protest the application for special building line requirement area by filing a protest with the department within 30 days of the date of the notice letter.

(e) The director shall determine the special building line requirement for each blockface within the proposed special building line requirement area. The special building line requirement shall be the constructed building line farthest from the street that the constructed building line of at least 70 percent of the structures on the blockface is the same as or farther from the street than. If a blockface within the proposed special building line requirement area is included within an historic district designated pursuant to article VII of chapter 33 of this Code, the special building line requirement shall be the constructed building line farthest from the street that the constructed building line of at least 60 percent of the structures on the blockface are the same as or farther from the street than. The constructed building line shall be measured from the property line to the closest point of the building nearest to the property line. If a lot may be included in more than one blockface that is subject of a pending application for a special building line requirement area, the blockface in which the lot is included for purposes of determining the special building line requirement shall be determined by the sole professional discretion of the director. The director shall approve the application for establishment of a special building line requirement area upon determining that each of the following conditions exist:

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- (1) The application satisfies each of the criteria of subsection (g);
- (2) The petition was signed by the owners of 51 percent or more of each blockface within the area proposed to be included within the special building line requirement area; and
- (3) A timely protest of the establishment of the special building line requirement area was not filed by any property owner within the proposed special building line requirement area.

Upon approval of an application, the director shall take the appropriate steps to refer the application to the city council.

(f) The director shall promptly refer an application to the commission if he cannot approve the application pursuant to subsection (e) of this section. Within 30 days after the director refers the application for the creation of a special building line

requirement area, the commission shall conduct a public hearing on the application at a regularly scheduled meeting of the commission. The director shall give notice of the public hearing to each owner of real property within the proposed special building line requirement area by letter deposited into the United States postal service, postage paid, no later than 15 days before the date of the public hearing. The owners of property within the proposed special building line requirement area and any other person may present comments in person or in writing at the public hearing.

(g) After the close of the public hearing, the commission shall consider whether to recommend that the city council establish the special building line requirement area. The commission shall recommend the establishment of a proposed special building line requirement area if it finds that the application satisfies each of the following criteria:

(1) The boundaries of the proposed special building line requirement area shall conform to the following rules:

a. the boundaries shall include at least one blockface;

b. the boundaries shall include all the properties within each proposed blockface; and

c. the proposed boundaries of the special building line requirement area shall form a contiguous area without out tracts as determined by the sole professional discretion of the director.

(2) More than 60 percent of each blockface within the proposed special building line requirement area, exclusive of land used for a park, library, place of religious assembly or a public or private elementary, middle, junior high or high school, is developed with single-family residential units;

(3) That the applicant has demonstrated sufficient support for the establishment of the proposed special building line requirement area to warrant the establishment of the area;

(4) That the establishment of the proposed special building line requirement area will further the goal of preserving the building line character of the area; and

(5) That the proposed special building line requirement area has a building line character that can be preserved by the establishment of a minimum building line, taking into account the age of the neighborhood, the age and architectural features of structures in the neighborhood, existing evidence of a common plan and scheme of development, and such other factors that the director, commission or city council, respectively as appropriate,

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may determine relevant to the area.

The commission shall not recommend the establishment of a proposed special building line requirement area if it finds that any blockface within the proposed area does not satisfy each of the above criteria. The commission may choose to recommend approval of the application without a blockface that does not satisfy the above criteria even with the result that the proposed area no longer forms a contiguous boundary or contains an out tract. The director shall forward to the city council each commission recommendation for the establishment of a special building line requirement area. If the commission does not recommend the establishment of a special building line requirement area, the decision of the commission shall be final.

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(h) In determining whether to establish the proposed special building line requirement area, the city council shall consider the recommendations of the director or the commission, as applicable and the criteria in subsection (g). The city council shall establish each proposed special building line requirement area by ordinance, which shall specify the building line requirement for the area. The director shall file for recordation in the real property records of the county or counties in which the special building line requirement area is located the ordinance designating the special building line requirement area.

(i) The special building line requirement area shall terminate 20 years after the effective date of the ordinance establishing the area, unless earlier terminated by an ordinance adopted by the city council.

(j) The following rules shall govern the issuance of building permits and the approval of subdivision plats and development plats before and after an application for establishment of a special building line requirement area is filed with the department.

- (1) If a complete, valid building permit, subdivision plat or development plat application is filed before the time an application for the establishment of a special building line requirement area is filed with the department, the application shall not be subject to the special building line requirement;
- (2) If a complete, valid building permit, subdivision plat or development plat application is filed after the time an application for the establishment of a special building line requirement area is filed with the department, the application will be subject to the special building line requirement unless:
 - a. The director determines that the application for the establishment of a special building line requirement area is not complete; or
 - b. The director determines that the proposed special building line requirement area does not have a constructed building line that

meets the requirements of section 42-163(e) of this Code or the application does not meet the requirements of section 42-163(g) of this Code.

- (3) If a complete, valid building permit, subdivision plat or development plat application is filed after the time a complete application for the establishment of a special building line requirement area is filed with the department, the building permit, subdivision plat or development plat shall not be approved pending completion of action on the application unless it meets the building line determined by the director pursuant to section 42-163(e) of this Code.

Notwithstanding the provisions of items (2) and (3) of this subsection, if the city council has not completed action on the special building line requirement area application 180 days after the filing of a complete, valid building permit, subdivision plat or development plat application, the building permit, subdivision plat or development plat application shall not be subject to the special building line requirement.

(Ord. No. 99-262, § 2, 3-24-99; Ord. No. 01-1100, §§ 4, 5, 12-12-01; Ord. No. 07-297, § 3, 3-21-07)

Special Minimum Lot Size Area

Amend Section 42-194 to read as follows:

Sec. 42-194. Lot sizes--Urban area--Special minimum lot size area.

(a) To preserve the lot size character of existing residential neighborhoods in urban areas that do not have minimum lot size established by deed restrictions, the minimum lot size may be established pursuant to this section through the creation of a special minimum lot size area, and a minimum lot size so created will prevail over any lesser minimum lot size established by this article. An area qualifies for establishment of a special minimum lot size pursuant to this section unless all lots in the area to be designated are subject to a deed restriction establishing a uniform minimum lot size for the area.

(b) The establishment of a special minimum lot size area shall be initiated by application to the department in the form prescribed by the director. The application shall include the following:

- (1) The proposed boundaries of the special minimum lot size area, which

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shall conform to the rules of item (g)(1) of this section;

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(3) A map or sketch showing the address and land use for all lots within the proposed special minimum lot size area;

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(4) Data for each lot within the proposed special minimum lot size area showing the actual size of each lot;

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(5) A petition signed by at least one owner of property proposed to be included within the special minimum lot size area; and

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(6) Evidence of support from the owners of property of each blockface within the proposed special minimum lot size area.

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(c) The director shall initially review each application for the creation of a special minimum lot size area to determine whether it is complete and shall indicate the date on which the application was determined to be complete. The director shall return an incomplete application with an explanation of the deficiencies. Within ten days after determining that an application for the creation of a special minimum lot size area is complete, the director shall give notice of the application for the creation of a special minimum lot size area to the owners of property within the proposed special minimum lot size area as shown on the most recent tax rolls for the county in which the proposed area is located. Notice shall be given by letter deposited into the United States postal service, postage paid. Notice shall also be given by signs placed in at least one location on each blockface within the proposed minimum lot size area. The director shall approve an alternative to the number and location of signs required by this subsection in excess of ten upon determining that the alternative will provide maximum visibility and obtain the objectives of this section without unduly burdening the applicant. The signs shall conform to the specifications prescribed by the director and shall be posted by the applicant.

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(d) A property owner within the proposed special minimum lot size area may protest the application for special minimum lot size area by filing a protest with the department within 30 days of the date of the notice letter.

(e) The director shall determine the minimum lot size for each blockface within the proposed special minimum lot size area, which shall be the largest existing lot size that lots in 70 percent of the blockface proposed to be included in the special minimum lot size area are equal to or greater than. If a blockface within the proposed special minimum lot size area is included within an historic district designated pursuant to article VII of chapter 33 of this Code, the minimum lot size shall be the largest existing lot size that lots in which 60 percent of the blockface proposed to be included in the special minimum lot size area are equal to or greater than. If a lot may be included in more than one blockface that is subject of a pending application for a special minimum lots size area, the blockface in which the lot is included for purposes of

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determining the special minimum lot size shall be determined by the sole professional discretion of the director. The director shall approve the application for establishment of a special minimum lot size area upon determining that each of the following conditions exist:

- (1) The application satisfies each of the criteria of subsection (g);
- (2) The petition was signed by the owners of 51 percent or more of each blockface within the area proposed to be included within the special minimum lot size area; and
- (3) A timely protest of the establishment of the special minimum lot size area was not filed by any property owner within the proposed minimum lot size area.

Upon approval of an application, the director shall take the appropriate steps to refer the application to the city council.

(f) The director shall promptly refer an application to the commission if he cannot approve the application pursuant to subsection (e) of this section. Within 30 days after the director refers the application for the creation of a special minimum lot size area, the commission shall conduct a public hearing on the application at a regularly scheduled meeting of the commission. The director shall give notice of the public hearing to each owner of real property within the proposed special minimum lot size area by letter deposited into the United States postal service, postage paid, no later than 15 days before the date of the public hearing. The owners of property within the proposed special minimum lot size area and any other person may present comments in person or in writing at the public hearing.

(g) After the close of the public hearing, the commission shall consider whether to recommend that the city council establish the special minimum lot size area. The commission shall recommend the establishment of a proposed special minimum lot size area if it finds that the application satisfies each of the following criteria:

- (1) The boundaries of the proposed special minimum lot size area shall conform to the following rules:
 - a. the boundaries shall include at least one blockface;
 - b. the boundaries shall include all the properties within each proposed blockface; and
 - c. the proposed boundaries of the special building line requirement area shall form a contiguous area without out tracts as determined by the sole professional discretion of the director.

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- (2) At least 60 percent of each blockface within the proposed special minimum lot size area, exclusive of land used for a park, library, place of religious assembly or a public or private elementary, middle, junior high or high school, is developed with or are restricted to not more than two single-family residential units per lot;
- (3) That the applicant has demonstrated sufficient support for the establishment of the proposed special minimum lot size area to warrant the establishment of the area;
- (4) That the establishment of the proposed special minimum lot size area will further the goal of preserving the lot size character of the area; and
- (5) That the proposed special minimum lot size area has a lot size character that can be preserved by the establishment of a minimum lot size, taking into account the age of the neighborhood, the age of structures in the neighborhood, existing evidence of a common plan and scheme of development, and such other factors that the director, commission or city council, respectively as appropriate, may determine relevant to the area.

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The commission shall not recommend the establishment of a proposed special minimum lot size requirement area if it finds that each blockface within the proposed area does not satisfy each of the above criteria. The commission may choose to recommend approval of the application without a blockface that does not satisfy the above criteria even with the result that the proposed area no longer forms a contiguous boundary or contains an out tract. The director shall forward to the city council each commission recommendation for the establishment of a special minimum lot size area. If the commission does not recommend the establishment of a special minimum lot size area, the decision of the commission shall be final.

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(h) In determining whether to establish the proposed special minimum lot size area, the city council shall consider the recommendations of the director or the commission, as applicable, and the criteria in subsection (g). The city council shall establish each proposed special minimum lot size area by ordinance, which shall specify the minimum lot size for the area. The director shall file for recordation in the real property records of the county or counties in which the special minimum lot size area is located the ordinance designating the special minimum lot size area.

(i) The special minimum lot size area shall terminate 20 years after the effective date of the ordinance establishing the area, unless earlier terminated by an ordinance adopted by the city council.

(j) The following rules shall govern approval of subdivision plats before and

after an application for establishment of a minimum lot size area is filed with the department.

- (1) If a complete, valid subdivision plat application is filed before the time an application for the establishment of a minimum lot size area is filed with the department, the subdivision plat application shall not be subject to the special minimum lot size.
- (2) If a complete, valid subdivision plat application is filed after the time an application for the establishment of a minimum lot size area is filed with the department, the subdivision plat application will be subject to the special minimum lot size unless:
 - a. The director determines that the application for the establishment of a special minimum lot size area is not complete; or
 - b. The director determines that the proposed special minimum lot size area does not have a lot size that meets the requirements of section 42-194(e) of this Code or the application does not meet the requirements of section 42-194(g) of this Code.
- (3) If a complete, valid subdivision plat application is filed after the time a complete application for the establishment of a special minimum lot size area is filed with the department, the subdivision plat shall not be approved pending completion of action on the lot size application unless it meets the minimum lot size determined by the director pursuant to Section 42-194(e) of this Code.

Notwithstanding the provisions of items (2) and (3) of this subsection, if the city council has not completed action on the special minimum lot size area application 180 days after the filing of the subdivision plat application, the subdivision plat application shall not be subject to the special minimum lot size.

(k) The following rules shall govern approval of subdivision plats, development plats and building permits for lots and tracts subject to a special minimum lot size requirement either adopted pursuant to this section, or to which subsection (j) applies:

- (1) For any lot and tract that was in use for single family residential purposes at the time the complete application for establishment of a special minimum lot size area was filed, the subdivision plat, development plat or building permit must provide only for the construction of not more than one primary dwelling unit and one secondary dwelling unit of not more than 900 square feet on a lot. Each lot must meet the minimum lot size requirement of this section.

(2) For any lot or tract that was vacant at the time the complete application for establishment of a special minimum lot size area was filed, the subdivision plat, development plat or building permit must provide only for the construction of not more than one primary dwelling unit and one secondary dwelling unit of not more than 900 square feet on a lot. Each lot must meet the minimum lot size requirement of this section. If the vacant lot or tract was restricted by deed restrictions or by plat restrictions to any use other than single-family residential at the time the complete application for establishment of a special minimum lot size area was filed and is so restricted at the time of the application, this subsection shall not apply.

(3) For any lot or tract that was not vacant and was in use for other than single family residential purposes at the time the complete application for establishment of a special minimum lot size area was filed, the subdivision plat, development plat or building permit may provide for any use permitted by law or, if applicable, deed restrictions.

The commission is authorized to grant variances from the requirements of items (1) and (2) of this subsection, but shall not be authorized to grant a variance from the special minimum lot size.

(Ord. No. 07-297, § 5, 3-21-07; Ord. No. 07-1140, § 6, 10-10-07),

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