

Subdivision B. - Special Minimum Building Line Requirements.

Sec. 42-170. - In general.

- (a) The city council may designate a special minimum building line block within the city to preserve the building line character of a single-family residential neighborhood that does not have a minimum building line requirement established by deed restrictions. A minimum building line requirement established pursuant to this subdivision shall prevail over any lesser minimum building line established by this article. The department shall maintain a list of current special minimum building line blocks on its website.
- (b) An area is eligible for designation of a special minimum building line block if it:
  - (1) Contains not less than one blockface and no more than two opposing blockfaces;
  - (2) Contains every lot on each blockface within the proposed area;
  - (3) Forms a contiguous area;
  - (4) Contains lots, at least 60 percent of which are developed for or restricted to single-family residential use, exclusive of land used for a park, utility, drainage or detention, public recreation or community center, library, place of religious assembly or an elementary, junior high, or high school. For purposes of this item, a vacant lot that contained a structure or was used for any lawful purpose within the five years prior to the date the application was accepted by the director shall be considered to be in use for the most recent lawful use of that lot; and
  - (5) Contains at least one lot that does not have a building line established by deed restrictions.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 25, 6-24-2015, eff. 7-24-2015)

Sec. 42-171. - Application.

- (a) An application for designation of a special minimum building line block shall be filed with the department by an applicant who shall be the primary contact person regarding the application. The applicant shall be an owner of a lot within the proposed special minimum building line block or a representative of a home owner's association, civic association, or other entity representing the interests of individual owners of lots within the proposed area. The application shall be in the form prescribed by the director and shall:
  - (1) Be signed by the owner of a lot within the proposed special minimum building line block. The signature of one owner of a lot shall be presumed to represent the consent of all owners of a lot with more than one owner;
  - (2) Include evidence of support from the owners of lots within the proposed special minimum building line block;
  - (3) Include an inventory of the lots in the proposed special minimum building line block identifying the address, land use at the time of the filing of the application, the building line of existing buildings on each lot, and which lots, if any, have a building line established by deed restrictions;
  - (4) Include a survey of at least one lot on each blockface within the proposed special minimum building line block that includes the location and dimensions of all buildings on the lot; and
  - (5) Include a map depicting boundaries of the proposed special minimum building line block.
- (b) Prior to the filing of an application with the department, the applicant shall meet with the director. The director shall conduct a preliminary review of the application during the pre-submittal meeting

and advise the applicant of any deficiencies that would cause the application to be considered incomplete.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 26, 6-24-2015, eff. 7-24-2015)

Sec. 42-172. - Application review.

- (a) Upon receipt of an application, the director shall evaluate the application to determine whether the application meets the requirements of section 42-171 of this Code. The director shall inform the applicant of whether the application is accepted or rejected within two business days of receipt of the application and if the application is rejected, the director shall give written notice to the applicant of the specific deficiencies of the application.
- (b) If an application is accepted pursuant to subsection (a) of this section, the director shall:
  - (1) Within two business days, update the list of special building line applications and designations on the department website to include:
    - a. The reference number for the application;
    - b. A description of the location of the minimum lot size block proposed by the application;
    - c. The date when a complete, valid, subdivision plat, development plat, or building permit application filed with the department shall be subject to the special minimum building line requirement pursuant to section 42-179 of this Code; and
    - d. The status of the application.
  - (2) Within 30 business days, review each application for completeness and shall determine the effective building line requirement pursuant to section 42-173 of this Code. If an application satisfies the eligibility requirements of section 42-170 of this Code, the director shall consider the application to be complete. If an application does not satisfy the eligibility requirements of section 42-170 of this Code, the director shall either:
    - a. Consider the application incomplete, return the application to the applicant for revision, and advise the applicant of the specific deficiencies within the application; or
    - b. For an application with two blockfaces, the director may modify the boundaries of the proposed special minimum building line block by removing a blockface so that the boundaries as amended satisfy the requirements, after which the director shall consider the application to be complete.
- (c) The director shall, within 15 business days of receipt of a complete application, give notice by first class mail to the owners of lots within the proposed special minimum building line block as shown on the current appraisal district records. The notice shall inform the owners of lots of the application and the procedure for review and consideration of the application. The notice shall also inform the owners of lots of their prerogative to file a written protest of the application with the department within 30 days of the date of the notice.
- (d) The director shall give notice by electronic mail to each district city council member in whose district any lot within the proposed special minimum building line block is located.
- (e) The applicant shall place two signs on each blockface within the proposed area that shall conform to the specifications prescribed by the director. The director shall approve an alternative to the number and location of signs required by this subsection upon determining that the alternative will provide sufficient visibility of the signs and accomplish the objectives of this section without unduly burdening the applicant. The applicant shall use reasonable efforts to maintain each required sign on each blockface until either the director refers an approved application to city council or the commission takes final action on an application.

- (f) For an application signed by the owners of 51 percent or more of the land within the proposed special minimum building line block, if no timely written protest by an owner of a lot within the proposed special minimum building line block is received by the department, and the director finds that the application meets the approval criteria of section 42-175 of this chapter, the director shall approve the application and refer the application directly to city council for consideration.
- (g) If the director is not able to approve the application, the director shall refer the application to the commission for review and consideration pursuant to section 42-175 of this Code.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 27, 6-24-2015)

Sec. 42-173. - Determination of special minimum building line requirement.

- (a) The following formula shall be used to determine the special minimum building line requirement:
  - (1) List all of the lots within the proposed special minimum building line block that have an existing building constructed in descending order of building lines.
  - (2) Express each lot's building line as a percentage of the total sum of the building lines within the proposed special minimum building line block by dividing the building line of each lot by the sum of the combined building lines of all lots within the entire special minimum building line block.
  - (3) Add the areas expressed as a percentage in the order of the list until the cumulative sum of the percentages reaches 70 percent or greater, or in the case of a special minimum building line block within a historic district designated by city council, 60 percent or greater.
  - (4) The building line of the lot at which the cumulative sum reaches the percentage required by item (3) of this section is the special minimum building line requirement.
- (b) The constructed building line shall be measured from the property line adjacent to the blockface to the nearest point of the building footprint excluding uninhabitable porches.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 28, 6-24-2015, eff. 7-24-2015)

Sec. 42-174. - Notice of a public hearing before the commission.

- (a) The director shall give notice by first class mail of the date, time, and location of the public hearing on the application before the commission to the owners of a lot within the proposed area as shown on the current appraisal district records not later than 15 days before the date of the public hearing.
- (b) The director shall give notice of the public hearing by electronic mail to each district city council member in whose district any portion of the proposed area is located.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013)

Sec. 42-175. - Commission review and consideration.

- (a) The commission shall consider each complete application referred by the director and shall hold a public hearing on the application. After the close of the public hearing, the commission shall consider the application and recommend designation of a proposed special minimum building line block that meets the following standards:
  - (1) The proposed area has an identifiable building line character, 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 other relevant factors;

- (2) The establishment of the proposed special minimum building line requirement will further the goal of preserving the building line character of the proposed special minimum building line block;
  - (3) The applicant has demonstrated sufficient support for the application to warrant the designation of the special minimum building line block; and
  - (4) The application complies with the application requirements of section 42-171 of this Code and the eligibility requirements of section 42-170 of this Code.
- (b) If the commission is unable to recommend designation of the special minimum building line block, the commission shall:
- (1) Defer the application to a later commission date;
  - (2) Deny the application; or
  - (3) Modify the boundaries of the proposed special minimum building line block for an application with two blockfaces by removing a blockface if the modification will result in boundaries of a special minimum building line block that the commission finds will satisfy the criteria of subsection (a) of this section.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013)

Sec. 42-176. - City council review and consideration.

- (a) The director shall submit an affirmative recommendation of the commission to designate the proposed special minimum building line block to city council, which shall decide whether to designate the special minimum building line block based on the criteria of subsection (a) of section 42-175 of this Code.
- (b) After designation by city council, the director shall file for recordation in the real property records of the county or counties in which the designated special minimum building line block is located, a notice of the city council action for each lot within the designated special minimum building line block.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013)

Sec. 42-177. - Ineligibility for inclusion after denial.

- (a) If the commission votes not to recommend the application or the city council votes to deny the application, any lot included in the boundaries of the application at its final consideration is ineligible for inclusion in a new application for a period of one year from the date of the final action.
- (b) The director may allow an ineligible lot to be included in a new application upon receipt of new information not known to the applicant at the time of the prior application regarding changed circumstances that the director determines warrants the inclusion of the lot in a new application.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013)

Sec. 42-178. - Term and expiration; application to rescind; application to renew.

- (a) A special minimum building line requirement established pursuant to an application that the director determines to be complete after July 24, 2015 shall terminate 40 years after the effective date of the ordinance establishing the requirement, unless terminated earlier by an ordinance adopted by the city council. A special minimum building line requirement established pursuant to an application that the director determines to be complete before July 24, 2015 shall terminate 20 years after the

effective date of the ordinance establishing the special minimum building line requirement unless terminated earlier by an ordinance adopted by city council.

- (b) An application to rescind a special minimum building line requirement shall comply with the application requirements of section 42-171 of this Code except that items (3), (4), and (5) of subsection (a) of section 42-171 of this Code shall not be required. The application to rescind shall be accepted by the director no earlier than five years after the effective date of the ordinance establishing the special minimum building line requirement, and no earlier than five years after the final action on the most recent application to rescind the special minimum building line requirement. Notwithstanding the foregoing, an application may be accepted by the director if the applicant provides new information regarding changed circumstances that the director determines warrants the acceptance of the application. The application shall be reviewed in accordance with the provisions of this subdivision for a new application for designation of a special minimum building line requirement, as applicable, except as provided by subsection (c) of this section.
- (c) In addition to the criteria for reviewing an application to establish a special minimum building line requirement in this subdivision, an application to rescind a special minimum building line requirement shall be evaluated in accordance with the following:
  - (1) If the application is not signed by the property owners of 67 percent of the area within the special minimum building line block, the application fails and no further action shall be taken;
  - (2) If the application is signed by the property owners of 67 percent of the area within the special minimum building line block and no timely written protest is received by the department, the director shall approve the application and refer the application directly to city council for consideration; and
  - (3) If the application is signed by property owners of 67 percent of the area within the special minimum building line block and a timely written protest is received by the department, the director shall refer the application to the commission. The commission shall approve the application and refer the application to city council for consideration if the special minimum building line block no longer satisfies the criteria of section 42-175 of this Code.
- (d) An application to renew a special minimum building line requirement shall comply with the application requirements of section 42-171 of this Code except that items (2), (3), (4), and (5) of subsection (a) of section 42-171 shall not be required. The application to renew shall be accepted by the director no earlier than two years before the expiration of the ordinance establishing the special minimum building line requirement. The application shall be reviewed in accordance with the provisions of this subdivision for a new application for designation of a special minimum building line requirement, as applicable, except as provided by subsection (e) of this section.
- (e) For an application to renew a special minimum building line requirement that does not receive a timely protest by an owner of a lot within the proposed special minimum building line block, and the director finds that the application meets the approval criteria of 42-175 of this chapter, the director shall approve the application and refer the application directly to city council for consideration.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 29, 6-24-2015, eff. 7-24-2015)

Sec. 42-179. - Rules governing subdivision plats, development plats, and building permits.

- (a) A complete, valid, subdivision plat, development plat, or building permit application filed with the department shall be subject to the special minimum building line requirement only if it is filed after the seventh day following the date an application for a special minimum building line block is published online by the director in accordance with subsection (b) of section 42-172 of this Code.
- (b) A subdivision plat, development plat, or building permit that is filed with the department shall not be approved if it provides for a building line that is less than or equal to the special minimum building line requirement established by the director pursuant to section 42-173 of this Code.

- (c) Notwithstanding the provisions of this section, if the city council has not completed action on the special minimum building line block application 180 business days after the earlier of the date the application is determined by the director to be complete or the date after the end of a time period during which that the director fails to timely perform an action required by the application review requirements of section 42-172 of this Code, a subdivision plat, development plat, or building permit application shall not be subject to the special minimum building line requirement.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 30, 6-24-2015, eff. 7-24-2015)