C20-2012-010 Amphitheater code amendment draft language **10/16/12**

Amend Article 2, Division 2 (*Requirements for All Districts*) to add:

(A) 25-2-517: "Amphitheater" means an open-air structure or man-made area, with a capacity of 100 or more people, specifically designed and used for public assembly for the viewing of a central stage and capable of being used for entertainment and performances.

(B) The restrictions of non-complying structures under Article 8 of Chapter 25-2 do not apply to amphitheaters legally constructed or permitted prior to the effective date of this ordinance.

(Part B, above, is optional – see Part B of Council Resolution 20120412-024)

ARTICLE 8. NONCOMPLYING STRUCTURES.

§ 25-2-961 NONCOMPLYING DEFINED.

NONCOMPLYING means a building, structure, or area, including off-street parking or loading areas, that does not comply with currently applicable site development regulations for the district in which it is located, but did comply with applicable regulations at the time it was constructed.

Source: Section 13-2-331; Ord. 990225-70; Ord. 031211-11.

§ 25-2-962 STRUCTURES COMPLYING ON MARCH 1, 1984.

(A) A structure that complied with the site development regulations in effect on March 1, 1984, is a complying structure notwithstanding the requirements of this chapter.

(B) A structure that complies with the site development regulations does not become a noncomplying structure as the result of a change in the use, zoning, or development of adjacent property.

Source: Section 13-2-820; Ord. 990225-70; Ord. 031211-11.

§ 25-2-963 MODIFICATION AND MAINTENANCE OF NONCOMPLYING STRUCTURES.

(A) Except as provided in Subsections (B), (C), and (D) of this section, a person may modify or maintain a noncomplying structure.

(B) The following requirements must be met in order to modify, maintain, or alter a non- complying residential structure:

(1) Demolition or removal of walls must comply with the following requirements:

(a) No more than fifty percent of exterior walls and supporting structural elements of the existing structure may be demolished or removed, including load bearing masonry walls, and in wood construction, studs, sole plate, and top plate. For purposes of this subsection, exterior walls and supporting structural elements are measured in linear feet and do not include the roof of the structure or interior or exterior finishes.

(b) Replacement or repair of structural elements, including framing, is permitted if required by the building official to meet minimum health and safety requirements.

(2) Replacement or alteration of an original foundation may not change the finished floor elevation by more than one foot vertically, in either direction.

(3) For any residential use other than a single-family use in an SF-3 or more restrictive zoning district, the following requirements must be met in order to add square footage or convert accessory space into conditioned or habitable space:

(a) If the lot is non-complying with current lot size or lot width requirements, the cost of improvements may not exceed 20 percent of the value of the structure before the improvements.

(b) Compliance with current parking and occupancy regulations is required.

(4) If a noncomplying portion of a structure is demolished, it loses its noncomplying status and may only be rebuilt in compliance with current code.

(C) Except as provided in Subsections (E) and (F), a person may not modify or maintain a noncomplying structure in a manner that increases the degree to which the structure violates a requirement that caused the structure to be noncomplying.

(D) The following requirements must be met in order to repair, reinforce, or maintain a non-complying dock, bulkhead, or shoreline access as defined in Section 25-2-1172 (*Definitions*), or to modify a noncomplying dock:

(1) Modification of a dock must comply with the following requirements:

(a) the dock must be an accessory to a single-family residence;

(b) the alteration must be confined within the existing footprint;

(c) the total footprint of the dock must be reduced by 50%;

(d) the number of boat slips on the dock is reduced by 50%; and

(e) the alternation may not increase the degree to which the structure violates a requirement that caused the structure to be noncomplying.

(2) Repair, reinforcing, or maintaining a noncomplying dock, bulkhead, or shoreline access must comply with the following requirements:

(a) no more than 50 percent of existing piles, pilings, or sheet pile or no more than 50 percent of the length of the dock, bulkhead, or shoreline access may be removed or replaced; and

(b) the location, footprint, and degree of noncompliance of the structure is not altered;

(3) Demolition is subject to the limitation in Subsection (B)(4) of this Section.

(E) A person may increase the height of a building that is a noncomplying structure based on a height requirement of this title if:

(1) the increase is made to a portion of the building that:

(a) does not exceed the existing maximum height of the building; and

(b) complies with the yard setback requirements of this title;

(2) the increase does not exceed 15 percent of the existing maximum height of the building; and

(3) after modification, the height of the modified portion of the building does not exceed the existing maximum height of the building.

(F) A person may modify a building that is a noncomplying structure based on a yard setback requirement of this title if:

(1) the modified portion of the building:

(a) does not extend further into the required yard setback than the existing noncomplying portion of the building, except for a vertical change in finished floor elevation allowed under Subsection (B)(2) of this section;

(b) unless located in a street side yard, is not greater in height than the existing noncomplying portion of the building, except for a vertical change in finished floor elevation allowed under Subsection (B)(2) of this section; and

(c) complies with the height requirements of this title; and

(2) the additional length of a modified portion of the building does not exceed the lesser of 50 percent of the length of the noncomplying portion of the building or 25 feet measured from the existing building and parallel to the lot line.

(G) Subsection (F) applies to each yard setback requirement with which the existing building does not comply.

(H) A person may modify a noncomplying building once under Subsection (E) and once under Subsection (F). This section does not prohibit a person from modifying a building along more than one yard setback as part of a single project.

Source: Sections 13-2-820 and 13-2-823; Ord. 990225-70; Ord. 031211-11; Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20100624-149; Ord. 20101209-075.

§ 25-2-964 RESTORATION AND USE OF DAMAGED OR DESTROYED NONCOMPLYING STRUCTURES.

(A) A person may restore a noncomplying structure that is damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind if the restoration begins not later than 12 months after the date the damage or destruction occurs.

(B) Except as provided in Section 25-2-963 (*Modification And Maintenance Of Noncomplying Structures*):

(1) a structure restored under this section is limited to the same building footprint, gross floor area, and interior volume as the damaged or destroyed structure; and

(2) a noncomplying portion of the structure may be restored only in the same location and to the same degree of noncompliance as the damaged or destroyed structure.

Source: Section 13-2-821; Ord. 990225-70; Ord. 031211-11; Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022.