

ORDINANCE AMENDMENT REVIEW SHEET

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Amendment: C20-2012-010 Amphitheater

Description: Amend Consider an amendment to Chapter 25 of the City Code, making amphitheater structures a conditional structure in all zoning districts.

Proposed Language: See attached draft ordinance.

Staff Recommendation: Staff recommends this amendment, with the following notes:

1. Staff recommends a capacity threshold of 100 persons that would trigger Planning Commission approval, so that smaller-sized amphitheater structures would not have to go through the conditional permit process.
2. Staff recommends NOT including the optional provision (per Council Resolution 20120412-024) that would exempt existing amphitheaters from becoming non-complying structures (PART 2 (B) of the draft ordinance).

Background: Initiated by Council Resolution 20120412-024

Amphitheater structures are currently not defined in Austin's Land Development Code, and the structures themselves are not subject to any kind of public hearing or specialized approval process. Because the *uses* that occur in an amphitheater (such as outdoor entertainment) may impact adjacent property owners via noise, parking, and traffic circulation, it is appropriate to make amphitheater structures a conditional structure, subject to Planning Commission approval. Certain uses that would typically occur in an amphitheater (such as outdoor entertainment and the use of amplified sound) are already subject to conditional use permitting. However, use of the conditional permitting process for other uses that might occur in an amphitheater, such as religious assembly, would not be appropriate. This leaves the amphitheater structure itself as the trigger for needed approval by Planning Commission, regardless of the use taking place in the amphitheater.

Board and Commission Actions

Planning Commission Subcommittee on Codes and Ordinances – Voted to recommend this item to full Planning Commission on December 18, 2012. Vote: 5-0.

Planning Commission – A public hearing at Planning Commission has been set for January 22, 2013.

Council Action

City Council – A public hearing at City Council has been set for January 31, 2013.

Ordinance Number: NA

City Staff: Greg Dutton

Phone: 974-3509

Email: greg.dutton@austintexas.gov

ORDINANCE NO.

C9/2

AN ORDINANCE AMENDING CITY CODE SECTIONS 25-1-21 TO DEFINE AMPHITHEATER AND ADDING A NEW SECTION 25-2-517 TO REGULATE THE APPROVAL OF AMPHITHEATERS AND AREAS FOR PUBLIC ASSEMBLY.

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 of "amphitheater" to read as follows and to renumber the remaining definitions accordingly:

(4) AMPHITHEATER means an outdoor or open-air structure or manmade area specifically designed and used for public assembly ~~of 100 or more people~~ and the viewing of ~~a central stage~~ an area capable of being used for entertainment and performances.

PART 2. City Code Chapter 25-2, Article 2, Division 2 (*Requirements for All Districts*) is amended to add a new Section 25-2-517 to read:

§ 25-2-517 REQUIREMENTS FOR AMPHITHEATERS.

(A) Construction of an amphitheater requires a site plan approved in accordance with the requirements of Section 25-5, Article 3 (*Land Use Commission Approved Site Plans*), regardless of whether the amphitheater is associated with a principal or accessory use. -A decision by the Land Use Commission on an application for an amphitheater is subject to appeal under Section 25-5-149 (*Appeal to Council*). The Land Use Commission evaluation should consider a project's impacts on adjacent uses, such as noise, parking, and traffic circulation.

(B) An amphitheater legally constructed or permitted prior to {*insert effective date of ordinance*} is not subject to this section or to Section 25-2-963 (*Modification and Maintenance of Noncomplying Structures*) and may be altered or modified in accordance with regulations applicable to the base zoning district.

PART 3. This ordinance takes effect on _____, 2012.

1 **PASSED AND APPROVED**

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5 _____, 2012

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Lee Leffingwell
Mayor

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10 **APPROVED:** _____

11 Karen M. Kennard
12 City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk



City of Austin

P.O. Box 1088, Austin, TX 78767
www.cityofaustin.org/housing

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Neighborhood Housing and Community Development Department

1000 East 11th Street Austin Texas 78702

DATE: January 9, 2013

TO: Greg Dutton,
Planning Development Review Department

FROM: Javier V. Delgado, Project Coordinator, AIHC

RE: AIS Determination for AN ORDINANCE AMENDING CITY CODE
SECTIONS 25-1-21 TO DEFINE AMPHITHEATER AND ADDING A NEW
SECTION 25-2-517 TO REGULATE THE APPROVAL OF
AMPHITHEATERS AND AREAS FOR PUBLIC ASSEMBLY.

Mr. Dutton:

Upon review of the proposed ordinance regarding the definition and regulation amphitheatres for public assembly, Neighborhood Housing & Community Development has determined NO IMPACT on affordable housing of affordable housing production. An Affordable Impact Statement review is not required. Please contact me if you have any questions.

Regards,

Javier V. Delgado
Project Coordinator
City of Austin- Neighborhood Housing & Community Development

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RESOLUTION NO. 20120412-024

WHEREAS, commercial entertainment venues that host performances such as live music concerts and plays in an outdoors setting, such as in an amphitheater or similar structure, are considered by the City Code to be "outdoor entertainment" uses; and

WHEREAS, "outdoor entertainment" is a conditional use in every zoning district where it may be considered, requiring approval of a conditional use site plan by the Land Use Commission; and

WHEREAS, consideration of a conditional use site plan includes the evaluation of a project's impacts on adjacent uses, such as noise, parking, and traffic circulation; and

WHEREAS, a land use determination was made that an amphitheater may be used as part of a primary use in certain non-commercial circumstances; and

WHEREAS, any amphitheater or similar structure may have significant impacts on the adjacent community and should be evaluated fairly, regardless of its status as a commercial or non-commercial venue;

WHEREAS, the below direction is not intended to affect the way commercial venues are currently regulated or permitted; **NOW THEREFORE**,

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

- A. To address the potential impacts of non-commercial venues, the City Council initiates amendments to City Code Chapter 25-2 (*Zoning*) and directs the City Manager to develop a proposed ordinance to

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make outdoor amphitheaters or similar structures a conditional use in all zoning districts, similar to outdoor entertainment, even if the amphitheater or similar structure is associated with a civic or residential use.

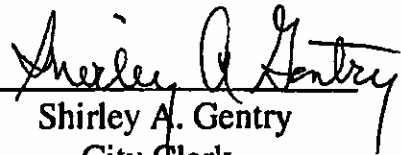
- B. The proposed ordinance should include an option for council consideration that would exempt existing or approved amphitheaters or similar structures from the general limitations applicable to legally non-conforming uses under Chapter 25-2 (*Zoning*).

BE IT FURTHER RESOLVED:

Because consideration of a conditional use site plan for non-commercial venues would provide an opportunity to address the orientation of performance space and other sound mitigation methods typically addressed during the permitting process under Chapter 9-2 (*Noise and Amplified Sound*), the City Manager should present options for council consideration to engage the Music Office earlier to simplify and increase predictability of the permitting process.

ADOPTED: April 12, 2012

ATTEST:


Shirley A. Gentry
City Clerk

EDUCATIONAL IMPACT STATEMENT

CITY OF AUSTIN CODE AMENDMENT

Austin Independent
School District



Prepared for the City of Austin



CODE AMENDMENT NAME: Amphitheater Use

CASE #: C20-2012-010

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☐ POTENTIAL IMPACT ON SCHOOL(S)

☒ NO IMPACT ON SCHOOL(S)

CODE AMENDMENT SUMMARY

Amend Section 25-1-21 (*Definitions*) of the Austin City Code to add a new definition of "amphitheater" and add a new Section 25-2-517 to regulate the approval of amphitheaters.

IMPACT ON SCHOOLS

The proposed code amendment change will not have an impact on AISD schools.

Date Prepared: 01/09/2013

Director's Signature: Paul Turner