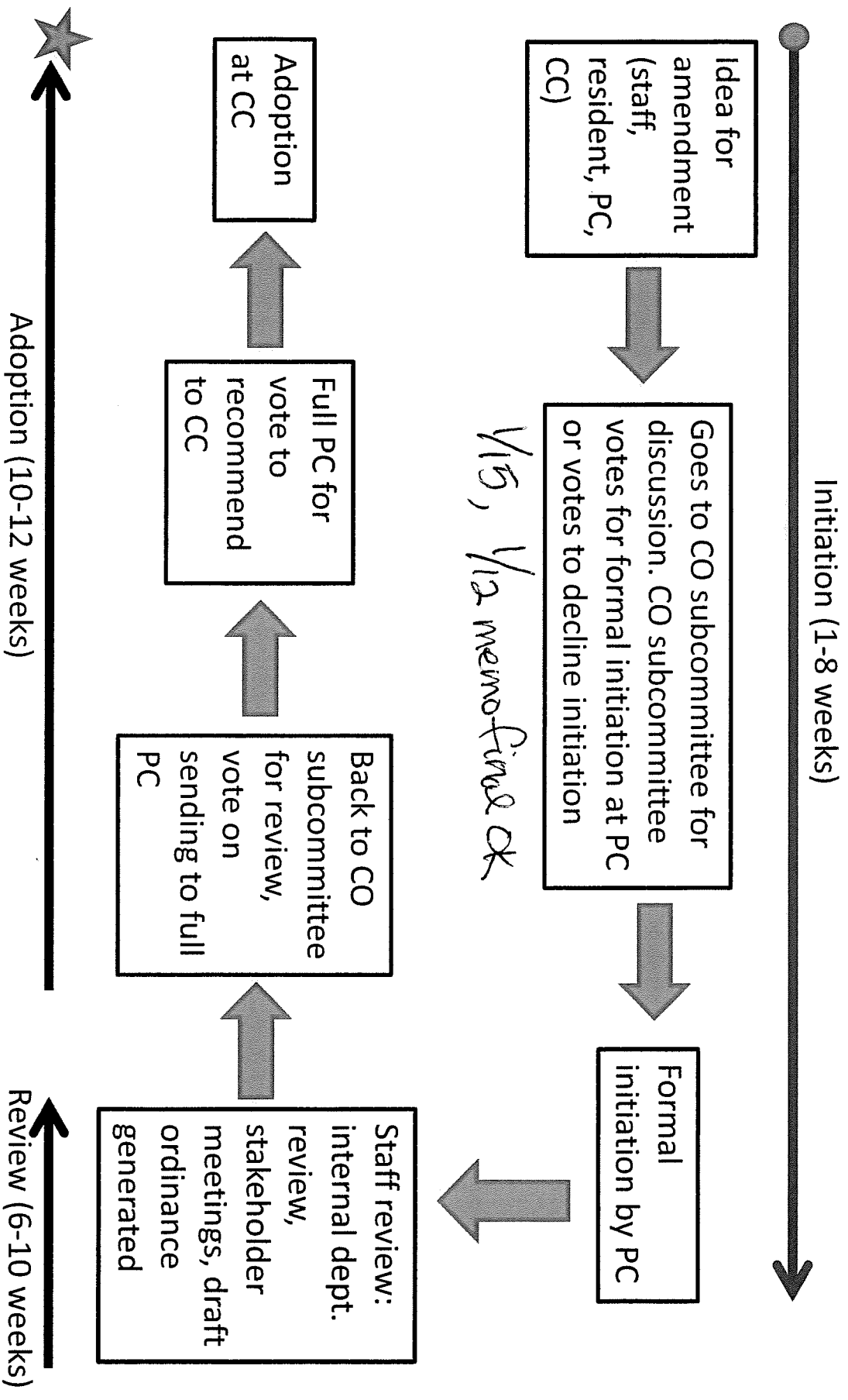


A0-13

Code amendment process



To: Code and Ordinance Subcommittee

From: Board of Adjustment Chair and Members

Date: 1/12/16

Please consider extending the Special Exception and fee waiver portion of the ordinance to permit additional applications for at least another 3 year period until June 2019 or consider waiving both expiration dates altogether and taking away the 25 year requirement in place of just a 10 year requirement.

Reasons for this request:

- 1) The 10 year period allowed for Special Exceptions vs. 25 year period is helpful to citizens with setback encroachments since we have aerial evidence on the public GIS system back to 1993 that can be used as evidence to prove a structure's existence if a survey of the property cannot be found or has not been done since the structure was built or put in place.
- 2) The 10 year period is sufficient for these structures to have otherwise been identified by neighbors if there is a public issue surrounding their addition to the property.
- 3) The fee should be continued to be waived since often these encroachments are for insignificant structures that the community generally doesn't have an issue with.
- 4) If the expiration date is waived altogether there will be no need to revisit the item again in 3 years as these facts will not have changed.

AO-3
3

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 25-2-476 OF THE CITY CODE
RELATING TO GRANTING OF SPECIAL EXCEPTIONS.

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

PART 1. City Code Section 25-2-476 (*Special Exceptions*) is amended to read:

- (A) The Board of Adjustment shall grant a special exception for an existing residential structure, or portion of an existing structure, that violates a setback required under Chapter 25-2 (*Zoning*) if the board finds that the special exception meets the requirements of this section.
- (B) The Board shall grant a special exception under Subsection (A) of this section if:
- (1) the residential use for which the special exception is sought is allowed in an SF-3 or more restrictive zoning district;
 - (2) the building official performs an inspection and determines that the violation does not pose a hazard to life, health, or public safety; and
 - (3) the Board finds that:
 - (a) the violation has existed for:
 - (i) at least 25 years; or
 - (ii) at least ~~15~~ 10 years, if the application for a special exception submitted on or before June 6, ~~2013~~ 2016 2019;
 - (b) the use is a permitted use or a nonconforming use;
 - (c) the structure does not share a lot with more than one other primary residence; and
 - (d) granting a special exception would not:
 - (i) alter the character of the area;
 - (ii) impair the use of adjacent property that is developed in compliance with city code; or

A0-3
4

(iii) grant a special privilege that is inconsistent with other properties in the area or in the district in which the property is located.

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

PASSED AND APPROVED

_____, 2012 §
 §
 §

 Lee Leffingwell
 Mayor

APPROVED: _____ **ATTEST:** _____
 Karen M. Kennard Shirley A. Gentry
 City Attorney City Clerk

AO-3
5

• **25-1-366 - FEE WAIVER PROGRAM FOR EXISTING RESIDENTIAL STRUCTURES.**

(A)

Subject to the requirements of Subsection (B) of this section, the director shall:

(1)

waive the fee for a variance application to the Board of Adjustment under Section 25-2-473 (*Variance Requirements*) or a special exception under 25-2-476 (*Special Exceptions*); and

(2)

refund permitting and inspection fees if:

(a)

the building official determines, based on a minimum life-safety inspection, that the structure does not pose a hazard to life, health, or public safety; and

(b)

the structure:

(i)

complies with current zoning regulations; or

(ii)

the structure receives a special exception or variance from the Board of Adjustment or certificate of occupancy or compliance from the building official under Section 25-1-365 (*Exemption from Compliance*).

(B)

A fee waiver or refund authorized under Subsection (A) of this section:

(1)

applies only to existing residential structures and does not cover permits for remodels, except to the extent required by the building official to address minimum life and safety requirements;

(2)

applies only if the residential use for which a special exception is sought is allowed in an SF-3 or more restrictive zoning district;

(3)

does not cover fees for re-inspections or for after-hours inspections; and

(4)

expires on June 6, ~~2016~~ **2019**.

(C)

The director shall refund fees collected after June 6, 2011 if the requirements for waiver under this section are met.

Source: Ord. 20110526-098; Ord. 20110804-008; Ord. 20130822-126.

