

NEW BUSINESS: CODE AMENDMENT INITIATION REVIEW SHEET

Amendment: **Board of Adjustment Special Exception Extension** – Initiate an amendment to Title 25 of the City Code to extend the period for which the Board of Adjustment may grant special exceptions and associated fee waivers.

Description: See attached.

Proposed Language: TBD

Background: Initiation recommended by the Codes and Ordinances Subcommittee on January 19, 2016.

Staff Recommendation:

Board and Commission Actions:

Council Action:

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To: Code and Ordinance Subcommittee

From: Board of Adjustment Chair and Members (voted 9-0 at their 1/11 meeting to send forward this proposal)

Date: 1/11/16

Please consider extending the Special Exception and fee waiver portion of the ordinance to permit additional applications for at least another 1 year period until June 2017. See attached.

Reasons for this request:

- 1) Another year of accepting the 10 year period of evidence and fee waiver is sufficient for these structures. When this section of the ordinance was first brought forward by the Board it was assumed to be temporary, however it took some time to administer so adding one more year would be fair to the public.
- 2) The fee should be continued to be waived since often these encroachments in the spirit of allowing a period of time for these structures that the community generally doesn't have an issue with to be "legalized".

CURRENT CODE**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~~ 2017.

Comment [GD1]: Proposed extension

(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.

25-2-476 - SPECIAL EXCEPTIONS

- (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 10 years, if the application for a special exception is submitted on or before June 6, ~~2016~~ 2017;

Comment [GD2]: Proposed extension

(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

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

Source: Ord. 20110526-098; Ord. 20121108-091; Ord. 20130822-126.