

RESOLUTION NO.

WHEREAS, certain technical code and zoning violations on residential properties throughout the City of Austin have existed compatibly with the surrounding neighborhoods for many years with no known adverse impact to public health, safety, or welfare; and

WHEREAS, the Austin City Council adopted Ordinance 20110526-098 to address the situations by providing the Board of Adjustment the authority to grant a special exception in limited circumstances without the requirement of a hardship finding; and

WHEREAS, the intent of the City Council by adopting this ordinance was to provide a predictable legal mechanism to grant special exceptions for longstanding code violations that do not threaten public safety or negatively impact surrounding properties; and

WHEREAS, the City Council desires for the Board of Adjustment to grant special exceptions in the instances where the prescribed criteria is met;
NOW, THEREFORE,

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

That the City Council initiates code amendments to the Land Development Code and directs the City Manager to process amendments to Subsections (A) and (B) of Section 25-2-476 (*Special Exceptions*), to read substantially as follows:

§ 25-2-476 SPECIAL EXCEPTIONS.

- (A) [~~Subject to the limitations under Subsection (B) of this section, the~~
The Board of Adjustment [~~may~~] 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 [~~may~~] 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 years, if the application for a special exception is submitted on or before June 6, 2013;
 - (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.

ADOPTED: _____, 2012 **ATTEST:** _____
Shirley A. Gentry
City Clerk