

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C2O-2009-005

Description:

The purpose of this code amendment is to amend Chapter 25-2-963 of the City Code to place additional requirements on remodeling and adding to non-complying structures and non-conforming land uses.

The proposed amendment to Chapter 25-2-963 will incorporate the following requirements for remodeling of residential non-complying structures:

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, down to the framing or studs, may be demolished or removed. 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 the original foundation may not change the finished floor elevation more than one foot vertically, in either direction.
3. For any residential use other than a single-family use in a 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 noncomplying with current lot size or lot width requirements, the cost of improvements may not exceed 20% of the value of the structure before the improvements.
 - b. Compliance with current parking and occupancy regulations is required.
4. If a non-complying portion of a structure is demolished, it loses its non-complying status and may only be rebuilt in compliance with current code.

Clarification on the applicability of these changes was provided and makes a distinction to affect residential structures only under the following code section: Section 25-2-963(B) The following requirements must be met in order to modify, maintain, or alter a non-complying residential structure.”

The review times for remodeling and additions was modified in Section 25-11-63 (Review Periods) to reflect a 7-day review period for non-complying structures.

Background:

The City Council initiated a resolution directing the City Manager to initiate changes to the Land Development Code that created new standards for defining residential remodels. After several meetings with stakeholders and presenting the propose amendment to various boards and commissions, it was determined that an existing section of the Land Development Code could be amended to address the original resolution.

Provided is a list of all of the boards and commission meetings on the proposed code amendment:

02-17-09	Planning Commission Codes and Ordinances Committee
03-04-09	Residential Design and Compatibility Commission
03-25-09	Building and Fire Code Board
04-01-09	Residential Design and Compatibility Commission
04-06-09	Land Use and Transportation Committee
04-29-09	Building and Fire Code Board
05-12-09	Community Development Commission (postponed until 07-14-09)
06-03-09	Residential Design and Compatibility Commission
07-14-09	Community Development Commission
08-05-09	Residential Design and Compatibility Commission
09-01-09	Residential Design and Compatibility Commission
11-17-09	Planning Commission Codes and Ordinances Committee (postponed until 12-15-09)
12-15-09	Planning Commission Codes and Ordinances Committee (meeting cancelled)
01-19-10	Planning Commission Codes and Ordinances Committee (postponed until 02-19-09)
02-16-10	Planning Commission Codes and Ordinances Committee (postponed until 03-16-10)
02-22-10	Design Commission (created subcommittee to address the code amendment)
03-15-10	Design Commission subcommittee
03-16-10	Planning Commission Codes and Ordinances Committee (postponed until 04-20-10)

04-20-10	Planning Commission Codes and Ordinances Committee (voted to have the code amendment move to the full Planning Commission)
05-11-10	Planning Commission
05-27-10	City Council (set the public hearing)
06-24-10	City Council (conduct the public hearing)

Staff Recommendation:

Staff recommends the proposed code amendment with the following additional staff recommendations:

1. Modify 25-2-963(D)(1)(a) to state, “Except as allowed under Subsection (B)(2), the modified portion of the building does not extend further into the required yard setback than the existing noncomplying portion of the building” This section does not allow for a vertical increase in height to the portion of the building that is encroaching into a yard setback. Under Subsection (B)(2) an allowance is made for an increase in the finished floor elevation of a foundation up to one foot, which may change the height of the noncomplying portion of the building that is encroaching into a yard setback.

Basis of Recommendation

After hearing testimony from several individuals on regarding concerns that necessitated the Council resolution, it became evident in all cases presented the structures were either noncomplying or existing nonconforming land uses before the remodel and/or addition took place. From this observation it became clear that a blanket remodel ordinance affecting all residential properties would not be necessary to achieve the goals of the resolution and satisfy stakeholders at the same time.

In addition, the current ordinance further clarifies that interior remodels will not be affected as well as veneer (finish) replacement.

Other Board and Commission Action:

At the request of the Planning Commission, this amendment was heard at prior Planning Commission Codes and Ordinances meetings and they took action on April 20, 2010 to move the current ordinance forward to the full Planning Commission.

The Residential Design and Compatibility Commission, along with the Design Commission reviewed the May 12, 2009 draft code amendment and made recommendations based on it. The May 12, 2009 draft code amendment and recommendations based on it are attached in the backup following this summary.

Planning Commission Action: A motion was made by Commissioner Danette Chimenti and Commissioner Clint Small seconded the motion of a vote of 8-0 to approve the stakeholder's version of the ordinance with the following modifications:

- 1) Replace the word "veneers" with the work "finishes."
- 2) Part 2, B3 – Include the word "residential" in the language.
- 3) Direct staff to work with the stakeholders on revising the language, "down to the framing or studs" and the review periods. If stakeholder's consensus is not reached, then the recommendation stands as written by Commissioner Clint Small.

City Council Action:

Ordinance Readings:

1st

2nd

3rd

Ordinance Number:

Assigned Staff:

John M. McDonald 974-2728

RESOLUTION NO. 20071206-050

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

That the City Manager is directed to initiate changes to the Land Development Code that create new standards for defining residential remodels. The following guidelines shall be submitted to the relevant boards and commissions and community stakeholders, including but not limited to the Planning Commission, Design Commission, Austin Neighborhoods Council (ANC), National Association of the Remodeling Industry (NARI), Homebuilders Builders Association (HBA) of Austin, and the Residential Development Regulations Taskforce (McMansion Taskforce), as a starting point for consideration:

1. A remodel is limited to the following items; otherwise it is a substantial remodel and must comply with the Land Development Code, as if it were new construction:
 - The removal of 50% of the structure's complete exterior walls and structurally supporting elements (columns, 2x4s and other such elements) from their current placement in the structure measured in linear feet;
 - *Modification of the original roof line only to the extent that it is compliant with current code;*

- The remodel pertains to the existing structure and must not expand horizontally or vertically, otherwise an application for an addition is required;
- The finishing of one remodel and starting of a second on the same structure should have a limited time constraint.

ADOPTED: December 6, 2007 ATTEST: Shirley A. Gentry
Shirley A. Gentry
City Clerk