

Exhibit "A"

(Proposed additions are shown in bold italics,
proposed deletions are shown in strikethrough text)

1111.1800 Exceptions

1111.1801 Applicability

Exceptions are intended to allow the efficient and expeditious disposition of requests for modification or exemptions from strict application of the Zoning Code under very specific circumstances where the decision requested has, by its nature, little prospect of significantly impacting neighboring land or the community as a whole. The following constitute exceptions pursuant to this Section:

- A. Extension of a district for a distance of not more than 25 feet, where the boundary line of a district divides a parcel or parcels in single ownership on September 14, 1959.
- B. Reconstruction of a nonconforming structure that has been destroyed or partially destroyed, where there is some compelling public necessity requiring the continuation of the nonconformity.
- C. Modification of the interpretation and application of the provisions of this Zoning Code where the street layout actually in existence varies from the street layout as shown on the Official Zoning Map.
- D. Enclosure of an existing porch with less than a minimum of 60 percent glass or other translucent material on exterior walls above the porch floor that extends within the front setback for a distance of not more than 10 feet, subject to the following:
 1. Consideration of the need for open, rather than enclosed, porches within yards as part of the open space proximate to dwellings, for the benefit of the dwelling's occupants and of the neighborhood.
 2. Consideration of the need for the particular enclosure to provide reasonable living amenities for the dwelling generally, rather than for a particular occupant, and the alternatives for providing such amenities.
 3. Consideration of the probable effect on the character of development and property values in the neighborhood, both negative and positive, and the desirability of encouraging owners to invest in those improvements in older neighborhoods that tend to increase living amenities and stabilize property values.
 4. Authorizing the enclosure will not impair an adequate supply of light and air to adjacent property, create a traffic hazard in streets, increase the danger of fire or imperil the public safety, unreasonably diminish established property values in the surrounding areas, or in any other respect impair the health, safety, convenience, or general welfare of the inhabitants of the City.

Exhibit "A" (cont'd)

(Proposed additions are shown in bold italics,
proposed deletions are shown in strikethrough text)

E. *Provision of a reasonable accommodation to a person with a disability.*

1111.1802 Application Filing

Applications for zoning exceptions must be submitted to the One Stop Shop, Division of Building Inspection and ~~Code Enforcement~~.

1111.1803 Public Hearing Notice

Mailed notice of the Board of Zoning Appeals hearing must be provided in accordance with Sec. 1111.0300.

1111.1804 Board of Zoning Appeals' Hearing and Decision

The Board of Zoning Appeals must hold at least one public hearing on the proposed exception.

A. Quasi-judicial

The Board of Zoning Appeals' public hearing is a quasi-judicial hearing.

B. Decision

Following the hearing, at the same or subsequent meeting, the Board of Zoning Appeals must take action to approve, approve with conditions, or deny the proposed exception.

1111.1805 Approval Criteria

Zoning exceptions shall be approved only when the Board of Zoning Appeals finds substantial evidence in the official record to support the findings expressly required by Sec. 1111.1801 as inherent to the exception and the following additional findings:

- A. the exception, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the exception; and
- B. the exception is not inconsistent with the stated purpose and intent of this Zoning Code (See Sec. 1101.0400).

1111.1806 Findings of Fact

All decisions on zoning exceptions must be supported by an affirmative finding of fact on each of the approval criteria.

1111.1807 Notice of Decision

Within 10 days after a final zoning exception decision is made by the Board of Zoning Appeals, copies of the written decision must be sent to the applicant and filed with the Division of Building Inspection and ~~Code Enforcement~~, where it will be available for public inspection during regular office hours.

Exhibit "A" (cont'd)

(Proposed additions are shown in bold italics,
proposed deletions are shown in strikethrough text)

1111.1808 Lapse of Approval

- A. An approved exception will lapse and have no further effect 1 year after its effective date unless:
 - 1. a building permit has been issued and construction diligently pursued;
 - 2. a Certificate of Use and Occupancy has been issued; or
 - 3. the building or structure is established.
- B. An exception also lapses upon revocation of a building permit.

1111.1809 Optional Administrative Procedure

- A. Any person seeking an exception has the option of having the exception reviewed by the Commissioner of Building Inspection and ~~Code Enforcement~~ or the **Chief Building Official** in lieu of a formal Board of Zoning Appeals' hearing. This administrative review must be conducted in accordance with rules and procedures adopted by the Board of Zoning Appeals.
- B. The rules and procedures adopted by the Board of Zoning Appeals for the administrative review procedure must include provisions for appropriate public notification and input, including the following:
 - 1. Mailed notice must be provided in accordance with Sec. 1111.0300.
 - 2. A formal Board of Zoning Appeals hearing must be held in all cases where an affected property owner files an objection to the Commissioner of Building Inspection and ~~Code Enforcement's~~ or the **Chief Building Official** decision.
 - 3. The Board of Zoning Appeals must be notified monthly of cases decided administratively.
- C. Any person who elects to have their case reviewed by this administrative review procedure, may, after receipt of the decision of the Commissioner of Building Inspection and ~~Code Enforcement~~ or the **Chief Building Official**, appeal the decision to the Board of Zoning Appeals for a formal hearing. This hearing must be conducted at the next regularly scheduled meeting of the Board of Zoning Appeals, unless the next meeting occurs 7 days or less after receipt of the appeal of the Commissioner's decision, in which case the appeal will be heard at the second next scheduled meeting of the Board of Zoning Appeals.

Exhibit "A" (cont'd)

(Proposed additions are shown in bold italics,
proposed deletions are shown in strikethrough text)

D. If a person is requesting a Reasonable Accommodation, the following shall apply:

1. A request for a "Reasonable Accommodation Exception" means a request to modify land use, zoning, and building regulations, policies, practices, or procedures in order to give people with disabilities an equal opportunity to use and enjoy a dwelling.

2. All requests for Reasonable Accommodation Exceptions shall be reviewed administratively under the procedures of Sec. 1111.1809 except that Section 1111.1809 (B) (1 & 2) does not apply, and there shall not be any mailed notice. The Commissioner of Building Inspection or the Chief Building Official shall issue a written determination of the request no later than thirty (30) days from the date the request is filed.

3. In determining a request for a Reasonable Accommodation Exception, the Commissioner of Building Inspection or the Chief Building Official shall consider the following factors:

1111.1809.1.D.3.1 the necessity of the accommodation to afford a person with a disability an equal opportunity to use and enjoy a dwelling;

1111.1809.1.D.3.2 if the requested accommodation requires fundamental alterations to zoning laws, rules, policies, practices, and procedures;

1111.1809.1.D.3.3 if the requested accommodation imposes an undue financial or administrative burden on the city.

Other factors may be considered if they are explicitly listed in the written determination.

E. The Commissioner of Building Inspection and ~~Code Enforcement~~ or the Chief Building Official, in exercising the rules and procedures of this administrative review procedure, has the same power as the Board of Zoning Appeals to grant exceptions.