

CHAPTER 3

ADMINISTRATION

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10-3-1: **PLANNING COMMISSION:** The Commission shall:

- (A) Supervise the administration of this Ordinance.
- (B) Adopt rules and procedures necessary or convenient for the filing of use permits, variances, site plans and petitions.
- (C) Act upon all applications for use permits, variances and site plans.
- (D) Make recommendations to the Council upon amendments to zone changes or to changes to the provisions of this Ordinance.
- (E) By resolution, minute order request or on its own initiative, adopt rules implementing the general zoning regulations of this Ordinance by:
 - 1. Setting forth additional specific uses allowed by right and by use permit which are in the opinion of the Commission similar or accessory to those listed in the Ordinance and conform to the purposes of the zone regulations.
 - 2. Setting forth additional specific uses for which parking space is required which are in the opinion of the Commission similar or accessory to those listed in the Ordinance.
 - 3. Setting forth standards of odor, gas, fumes, dust, smoke, noise, vibrations, glare, heat, electrical interference, radioactivity or waste allowable beyond the confines of property.
- (F) Make recommendation to the City Council on applications for subdivision maps.
- (G) Applications being processed concurrently with an application requiring City Council action shall be scheduled for public hearing before the Planning Commission for its recommendation and the City Council for final action. (Ord. 1654, 25 Jun 2013)

10-3-2: **DEVELOPMENT SERVICES DEPARTMENT:** The Development Services Department shall assist in the administration of this Chapter by:

- (A) Processing and investigating all applications for use permits, variances and site plans.
- (B) Reviewing applications for building permits and other licenses referred to it to determine their compliance with this Chapter.
- (C) All other administrative permits whose purpose and procedures are set forth herein. (Ord. 1474, 8 Jan 1991)

10-3-3: **CONDITIONAL USE PERMITS:** Certain uses may be permitted in zones in which they are not otherwise outright permitted in this Chapter, where such uses are deemed essential or desirable to the public convenience or welfare, and are in harmony with the various elements or objectives of the Comprehensive General Plan, and are not detrimental to surrounding property. (Ord. 1474, 8 Jan 1991)

10-3-4: **USES PERMITTED IN ANY ZONE:** The following uses may be permitted in any zone upon the granting of a Conditional Use Permit:

Airports or aircraft landing fields (FAA approved).

Churches or other places used exclusively for religious worship.

City, County, State and Federal enterprises, including buildings, facilities and uses of departments or institutions thereof which are necessary or advantageous to the general welfare of the community.

Communication equipment buildings.

Educational institutions including elementary and secondary schools and colleges.

Health facilities and community care facilities.

Institutions of a philanthropic nature (charitable nonprofit organizations).

Large family daycare homes.

Libraries and museums.

Mortuaries, cemeteries and expansion of existing cemeteries.

Natural resources development together with the necessary buildings, apparatus or appurtenances incident thereto.

Public parks, playgrounds, golf courses, community buildings and country clubs.

Public utility or public service buildings, structures and uses.

Radio, microwave, television and telephone transmitters and broadcasting stations, including amateur and professional.

Real estate tract offices and accessory signs.

Residential care facilities and residential service facilities for seven (7) or more residents.

Residential care facilities and residential service facilities for six (6) or fewer residents when such a facility is located at a distance of one thousand feet (1,000') or less from an existing community care facility as measured from any point upon the outside walls of the structures housing such facilities.

Tandem parking spaces as specified in subsection 10-4-4(C)10 of this Title. (Ord. 1548B, 23 Jun 1998)

10-3-5: **VARIANCES:**

- (A) The Commission may grant a variance to authorize a specific exception to any regulation of this Chapter in accordance with the procedure specified in Section 10-3-6 of this Chapter.
- (B) The Commission may grant variances from the terms of the zoning regulations contained in this Title only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulations governing the parcel of property or for purposes of granting density greater than that permitted in the zone. The provisions of this Section shall not apply to Conditional Use Permits. (Ord. 1474, 8 Jan 1991)

10-3-6: **CONDITIONAL USE PERMIT AND VARIANCE PROCEDURE:** The granting of Conditional Use Permits and variances shall be in accordance with the following procedure:

- (A) Application for a Conditional Use Permit or variance shall be filed with the Development Services Department on a form furnished by said Department, accompanied by a site plan and fee set by resolution of the City Council, no part of which may be refunded. When the applicant is not the owner of the property, the written authorization of the owner shall accompany the application. The application shall not be accepted for filing by said Department unless it conforms to the filing requirements established by the Commission. The requirement that the applicant for a Conditional Use Permit or variance be the owner of the property or written authorization be obtained from the owner shall not apply to public utilities or other agencies with powers of eminent domain.
- (B) The Development Services Department shall set the hearing date and shall give notice of application and hearing by mailing notices to all property owners within three hundred feet (300') of the exterior boundaries of the subject property, using the ownerships, names and addresses from the last adopted tax roll. The notice shall state the name of the applicant, the location of the property, the use or exception applied for, and the time and place of the hearing. The failure of any property owner to receive the notice shall not invalidate the proceedings. If the hearing is continued by the Commission, and the time and place announced publicly at the time of adjournment of the hearing, no further notice is required.
- (C) Within forty (40) days after the application is deemed complete, the Planning Commission shall hold a public hearing on the application at a regular or special meeting of the

Commission. Failure of the Commission to make a decision on an application within thirty (30) days after the hearing shall constitute a denial of the application, and the secretary of the Commission shall certify such denial.

- (D) The Commission may require such terms and conditions to the granting of a Conditional Use Permit or variance as the Commission may deem necessary. Noncompliance with these terms or conditions shall be a cause of revocation of such permit or variance. Revisions to the terms or conditions of a granted permit or variance shall require a new permit or variance.
- (E) All Conditional Use Permits and variances granted by the Commission shall expire and become null and void eighteen (18) months after the date of granting such permit, unless the authorized use is carried on, or a building permit has been obtained for the structure requiring the use permit or variance, prior to the date of expiration.
- (F) The Conditional Use Permit and variance shall run with the land, i.e., shall apply to the parcel specified in the Conditional Use Permit or variance, regardless of any change of ownership, but may not be transferred to another parcel.
- (G) The Conditional Use Permit and variance shall become effective and be issued eleven (11) days after the Commission granted the permit unless an appeal has been filed, in which case the Conditional Use Permit and variance shall not be issued until the granting of the permit is affirmed on appeal.
- (H) No application shall be reconsidered and no new application shall be considered by the Commission for a Conditional Use Permit or variance previously acted upon by the Commission within one year after the date of such action, unless the Commission establishes that there has been a substantial change in the circumstances under consideration since the original proceedings. (Ord. 1474, 8 Jan 1991)
- (I) A Conditional Use Permit or Variance being processed concurrently with an application requiring City Council action shall be scheduled for public hearing before the Planning Commission for its recommendation and the City Council for final action. (Ord. 1654, 25 Jun 2013)

10-3-7: **APPEALS:** The decision of the Commission on a Conditional Use Permit or variance may be appealed to the Council by the applicant or by any person directly and adversely affected by the decision, in accordance with the following procedure:

- (A) The appeal shall be filed with the City Clerk on a form furnished by said Clerk, accompanied by a fee established by the City Council by resolution, no part of which may be refunded. Such appeal must be filed within ten (10) days after the date of the decision of the Commission. Such decision becomes final if an appeal is not filed within the time herein specified.
- (B) Within ten (10) days after the date of filing of the appeal, the City Clerk shall transmit the record on appeal to the Development Services Department.
- (C) The City Clerk and Council shall follow the procedure to be followed by the Development Services Department and Commission in subsection 10-3-7(B) for use permits and variances.
- (D) Within forty (40) days after the filing of an appeal with the City Clerk, the Council shall hold a public hearing on the appeal at a regular or special meeting of the Council. The Council may affirm or reverse the decision of the Commission and may substitute its decision for that of the Commission, based on the record of appeal and the evidence

received at the hearing on appeal. The decision of the Council on such appeal shall be final. Failure of the Council to reach a decision on such appeal within sixty (60) days after the filing of the appeal shall affirm the decision of the Commission. (Ord. 1474, 8 Jan 1991)

10-3-8: **ENFORCEMENT:**

- (A) The Development Services Department and other law enforcement agencies of the City shall enforce the provisions of this Ordinance.
- (B) No building permit shall be issued by the Development Services Department for construction, demolition, alteration, addition to, or moving of a structure unless such work would comply with the provisions of this Ordinance, or a use permit or a variance was issued by the Commission.
- (C) A permit or license issued by a Municipal or other public agency for a use or structure in violation of a provision of this Ordinance, except as provided by this Title, shall not constitute authorization for such a violation or establish vested rights. (Ord. 1474, 8 Jan 1991)

10-3-9: **ABATEMENT:** The construction, alterations, addition to, moving of a structure, or the use of land or structure, in violation of the provisions of this Ordinance is unlawful and constitutes a public nuisance. The City Attorney, upon order of the Council, shall immediately commence action for the abatement, removal, restraining and enjoinder of such violation in the manner prescribed by law. The remedies provided in this Ordinance are cumulative and shall not exclude other remedies for a violation of this Ordinance as provided by other laws or ordinances. (Ord. 1474, 8 Jan 1991)

10-3-10: **PENALTIES:** Any person violating any of the provisions of this Chapter is subject to Section 1-4-5, "Penalty," of this Code. (Ord. 1474, 8 Jan 1991)

10-3-11: **MINOR DEVIATIONS:**

- (A) When Acceptable: When it is in the public interest, the Development Services Director, or the duly appointed representative, may consider and render decisions on the following minor deviations involving slight modifications to the provisions of this Chapter:
 - 1. The reduction of the lot area or the minimum size of the dwelling unit requirements by not more than ten percent (10%) of that required in the zone for not more than one lot or dwelling unit in a development.
 - 2. The modification of the end stalls of automobile parking space turning radius not less than twenty two feet (22') and reduction in size dimension up to twenty percent (20%) of a loading berth.
 - 3. The modification of the height of a fence, wall and hedge regulations up to twenty percent (20%).
 - 4. The modification of the height requirement of uncovered patios, terraces, swimming pools, stairways, or other landings, encroaching into required yard setbacks.
 - 5. The modification of maximum building coverage not greater than five percent (5%) over the permitted coverage.
 - 6. The modification of minimum dwelling unit area not greater than five percent (5%) of the required area.

7. The modification of rear and side yard setbacks not to exceed ten percent (10%).
 8. Front yard modifications may also be granted when the irregular shape of a lot prohibits the required front and rear yards. In such cases, the front and rear yards shall be an average setback.
 9. The modification of parcel width and/or parcel frontage by not more than ten percent (10%) of that required in the zone for not more than one lot within a parcel map.
- (B) Conditions: In granting a minor deviation, all the conditions set forth in subsection 10-3-5(B) of this Chapter shall be made by the Development Services Director, or the designee, and conditions may be imposed. A decision shall be made in writing within twenty (20) days after the filing of the application. One copy shall be mailed to the applicant.
- (C) Development Services Director Consideration Discretionary: The Development Services Director, or the duly appointed representative, may consider and determine any matter within the scope of this section or refer such matter to the Commission for its determination.
- (D) Application and Fee: Application for a permit shall be filed with the Development Services Department on a form furnished by said Department, accompanied by a site plan and a fee established by the City Council by resolution, no part of which may be refunded. When the applicant is not the owner of the property, the written authorization of the owner shall accompany the application. The application shall not be accepted for filing by said Department unless it conforms to the filing requirements established by the Commission.
- (E) Notification of Adjacent Property Owners: The Development Services Director or an authorized representative shall contact adjacent property owners and shall advise of the applicant's request. A five (5) day period shall be provided for response from adjacent property owners.
- (F) Appeals From Determinations: If the applicant or adjacent property owner is dissatisfied with the decision, the decision may be appealed to the Commission within ten (10) days after the decision is rendered. Such appeal shall be in writing and shall be filed with the secretary of the Commission. Upon the receipt of such appeal, the secretary of the Commission will establish the date, time and place to hear such appeal. The Commission, upon receipt of the Development Services Director's action, may require said minor deviation to be presented at a public hearing before the Commission. No permits shall be issued until the Planning Commission concurs with the staff's action. The decision of the Planning Commission is appealable to the City Council within ten (10) days of the Commission's decision. (Ord. 1474, 8 Jan 1991)

10-3-12: **REQUESTS FOR REASONABLE ACCOMMODATIONS:**

- (A) Purpose: It is the policy of the City to provide reasonable accommodation for disabled persons seeking fair access to housing in the application of its zoning laws. The purpose of this Section is to provide a process for making a request for reasonable accommodation.
- (B) Request Application:
1. Any person who requires reasonable accommodation, because of a disability, in the application of a zoning law which may be acting as a barrier to fair housing

opportunities may do so on a form to be provided by the Development Services Director.

2. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(C) Request Information: The applicant shall provide the following information:

1. Applicant's name, address and telephone number;
2. Address of the property for which the request is being made;
3. The current actual use of the property;
4. The Zoning Code provision, regulation or policy from which accommodation is being requested;
5. The factual basis for the need for the accommodation including a description of the person's disability and a physical description of the property.

(D) Notice of Request For Accommodation: Written notice that a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(E) Grounds For Accommodation: In making a determination regarding the reasonableness of a requested accommodation the following factors shall be considered:

1. Special needs created by the disability;
2. Potential benefit that can be accomplished by the requested modification;
3. Potential impact on surrounding uses;
4. Physical attributes of the property and structures;
5. Alternative accommodations which may provide an equivalent level of benefit;
6. In the case of a determination involving a single-family dwelling, whether the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents.

(F) Notice of Proposed Decision:

1. Notice of the proposed decision shall be made in the same manner as set forth in subsection (D) of this Section.

2. Within ten (10) days of the date the notice is mailed, any person may make a request for Director's hearing upon a proposed decision.
 3. If no request for hearing is received the proposed decision shall become a final director's decision.
- (G) Director's Hearing: The Director shall conduct a hearing on the request for reasonable accommodation at which all reasonable evidence and credible testimony shall be considered.
- (H) Notice of Director's Decision:
1. Within thirty (30) days after the hearing, the Director shall issue a decision granting the request, including any reasonable conditions, or denying the request.
 2. The notice of decision shall contain the Director's factual findings, conclusions and reasons for the decision.
 3. The notice of decision shall be made in the same manner as set forth in subsection (D) of this Section.
- (I) Appeal to Planning Commission:
1. Within thirty (30) days after the notice of Director's decision, any person may appeal in writing to the Planning Commission.
 2. All appeals shall contain a statement of the grounds for the appeal. (Ord. 1548B, 23 Jun 1998)