

## **CHAPTER 116**

### **ADJUSTMENTS**

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**116.010. ADJUSTMENTS, INTENT AND PURPOSE.** The provisions of this chapter are intended to provide a process and standards whereby the administrator may grant limited adjustments to the strict application of the development standards of this zoning code. These provisions should be used to allow reasonable and economically practical development of property where special conditions warrant limited deviation. (Ord No. 82-96)

**116.020. CRITERIA FOR GRANTING AN ADJUSTMENT.** The limitations on the authority set forth in this chapter shall not be exceeded under any circumstances. No adjustment shall be granted to permit development for a use not permitted on the subject property. The administrator may grant an adjustment only upon finding:

- (a) The intent and purpose behind the specific provision sought to be adjusted is either clearly inapplicable under the circumstances of the particular proposed development, or the particular development as proposed otherwise clearly satisfies the intent and purpose for the provision sought to be adjusted; and, in either case, the proposed development will not unreasonably impact surrounding existing or potential uses and development; or
- (b) Specific criteria for the grant of a particular kind of adjustment specified elsewhere in this zoning code are met. (Ord No. 1-91)

**116.030. LIMITS FOR ADJUSTMENTS.** The administrator may grant an adjustment only:

- (a) If the request involves only the expansion or reduction by not more than 20 percent of any of the development standards except lot size imposed on a particular subject property under the provisions of this zoning code; or of landscaping in an IBC district; or
- (b) For the location, height, or density of a fence; or
- (c) For bicycle parking requirements; or
- (d) Where otherwise specifically permitted under this zoning code, and then only within any limits specified in the grant of such authority. (Ord No. 148-84; Ord No.22-85; Ord No. 99-96)

**116.040. CONDITIONS MAY BE ATTACHED.** The administrator may attach any condition to the adjustment deemed necessary to more fully satisfy the criteria set forth in SRC 116.020, if such condition relates directly and specifically to the matter being adjusted. Such conditions may be considered in determining whether the criteria of SRC 116.020 are met.

**116.050. ORDER GRANTING THE ADJUSTMENT.** (a) The administrator shall issue a written order, including findings of fact as to the justification for the decision, when granting or denying an adjustment. Within three days of its issuance, the order shall be mailed or delivered to:

- (1) The owner of the property;
  - (2) The building official for filing with the building permit;
  - (3) Each member of the commission for their review;
  - (4) Each property owner in the notification area; and
  - (5) Each affected neighborhood organization.
- (b) The order shall be effective 15 days following the day it is issued, unless an appeal is filed. (Ord No. 1-91; Ord No. 62-96; Ord No. 57-2000)

**116.060. TRANSFER OF ADJUSTMENTS.** Adjustments shall transfer as provided for variances in SRC 115.040.

**116.070. APPEAL.** (a) Appeals from the grant or denial of an administrative adjustment shall be heard by the hearings officer as provided in SRC Chapter 114 upon the filing with the administrator of a written notice of appeal by any of the following:

- (1) The applicant;
  - (2) Any person owning property within the notification area; or
  - (3) Any affected neighborhood organization.
- (b) Unless reviewed by council pursuant to 114.210 or appealed to the hearings officer the action of the planning administrator shall be final.
- (c) Notice of appeal shall be filed on or before the effective date of the adjustment.
  - (d) Notice of appeal shall include the name and mailing address of the appellant, and a reference by number or title to the order appealed from. (Ord No. 62-96)

## **ADJUSTMENTS AND ADMINISTRATIVE CONDITIONAL USES**

### **116.100 ADMINISTRATIVE CONDITIONAL USES; GENERAL CONCEPT.**

An administrative conditional use is a use that, because of the manner of development and use, must be conditioned to appropriately adapt the use to its location and neighborhood. The administrative conditional uses listed in this chapter are decided by the planning administrator based upon specified nonvariable conditions and criteria, with notice of the decision being sent to affected property owners and neighborhood organizations. The decision becomes final in the absence of an appeal. (Ord No. 82-96)

**116.110 APPROVAL REQUIRED** (a) No building, structure or land shall be used or developed for any use which is, by any provision of this zoning code, designated as an administrative conditional use in any zone unless administrative conditional use approval has been granted.

(b) No use for which administrative conditional use approval has been granted shall be altered or enlarged, expanded or relocated without separate administrative conditional use approval. (Ord No. 82-96)

### **116.120 CRITERIA AND IMPOSITION OF CONDITIONS; JURISDICTION; APPEAL**

(a) The planning administrator shall have original jurisdiction to decide all applications for administrative conditional use approval.

(1) Notice and comment. The notice and procedures used by the administrator shall:

(A) Provide a 14-day period for submission of written comments prior to the decision to persons within the notification area.

(B) State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the administrator to respond to the issue;

(C) List, by commonly used citation, the applicable criteria for the decision;

- (D) Set forth the street address or other easily understood geographical reference to the subject property;
- (E) State the place, date and time that comments are due;
- (F) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
- (G) Include the name and phone number of a local government contact person;
- (2) Posted Notice. Notice by posting shall be given as provided in SRC 114.070 with reference to land use decision and end of comment period replacing notation of public hearing and public hearing date.
- (3) Notice of decision. Notice of the decision shall be provided to the applicant and any person who submits comments under subparagraph (A) of this subsection. The notice of decision must include an explanation of appeal rights.
- (b) The standards and conditions provided for administrative conditional use approval are nonvariable. To insure conformity with these minimum standards and conditions, the administrator may attach additional conditions in the grant of any administrative conditional use approval.
- (c) Appeal of administrative conditional use approvals shall be to the hearing officer upon the filing of a written notice of appeal by the applicant and any person providing comments under this subsection within 15 days of the mailing of the decision. (Ord No. 82-96)

**116.130 WIRELESS COMMUNICATION FACILITIES.** Where designated on administrative conditional use, freestanding support structures and equipment enclosures shall be located and developed in compliance with this section. Freestanding support structures 35 feet or less in height and antennas attached to existing structures are, notwithstanding alternative provisions, administrative conditional uses in historic districts and on historic building sites designated by the city, and shall be located and developed in compliance with this section. Wireless communications facilities are not permitted on city-owned historic property.

- (a) Application. In addition to any other information generally required by the administrator under SRC 110.210, the following information shall be provided:
  - (1) An evaluation of the feasibility of collocation of the subject facility as an alternative to the requested permit. The feasibility study must include:
    - A. The location and ownership of existing telecommunication structures within the cell service area not to exceed two (2) miles;
    - B. Written verification or other documentation revealing the availability and/or cooperation shown by other providers to gain access to existing sites/facilities to meet the needs of the applicant;
    - C. The tower type and height of potential collocation facilities;
    - D. Anticipated capacity of the wireless communication facility (including number and types of antennas which can be accommodated); and
    - E. The specific reasons why collocation is or is not feasible.
  - (2) Alternatives for locating/relocating support structures within 250 feet of the proposed location; and
  - (3) Analysis of the visual impacts of the proposed facility on residential dwellings within 250 feet of the proposed site, and an assessment of potential mitigation measures, including relocation.

(b) Approval criteria and minimum conditions:

- (1) Collocation on existing wireless communication facilities within the cell service area of the proposed site is not feasible;
- (2) The wireless facility shall be located and designed to preserve the ability for collocation of at least one additional user on all support structures exceeding 35 feet in height, if feasible;
- (3) Based on the visual analysis and mitigating measures, the location and design of a freestanding wireless communication facility shall be conditioned to minimize visual impacts from residential areas, such as considering setbacks, building heights, bulk, color, and landscaping requirements;
- (4) The design minimizes identified adverse impacts of the proposed use to the extent feasible; and
- (5) Any obsolete freestanding or attached wireless communication facility shall be removed by the facility owner within 6 months of the date it ceases to be operational or if it falls into disrepair.
- (6) Freestanding support structures greater than 35 feet in height shall be at least 300 feet from an R or CO zone. Notwithstanding SRC 116.120(3)(b) this setback requirement may be varied by the decision maker upon a finding that the criteria in SRC 115.020 are met. . (Ord No. 82-96; Ord No. 4-97)