

ARTICLE TWELVE

ADMINISTRATION AND PROCEDURES

12-1 Purpose

The Administration and Procedures Provisions establish the methods for implementation of the Zoning ordinance. These provisions include procedures for reviewing specific uses within certain zoning districts; amending the Zoning Ordinance; and granting variances.

12-2 Site Plan Review Procedure

a. Purpose

The Site Plan Review Procedure provides for the administrative review in addition to plan review required by other sections of the Ralston Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

b. Administration

The Planning Commission shall review, evaluate, and act on all site plans submitted pursuant to this procedure.

c. Uses Requiring Site Plan Review

The following selected uses shall follow the Site Plan review procedure prior to the issuance of a building permit, unless they are otherwise subject to a Special Use Permit procedure for specific zoning districts.

1. Multiple family developments with 20 or more dwelling units.
2. Elementary and Secondary Education Facilities
3. Automotive Washing
4. Automotive Sales
5. Any use allowing for drive-in services.
6. Any commercial or office building providing over 15,000 square feet in building area.
7. Any use that produces a peak hour volume in excess of 100 vehicles.

8. Any non-residential use with frontage along 72nd Street, 84th Street, L Street, or Harrison Street.
9. Any industrial use adjacent to a residential zoning district.
10. Any new building or structure in the Town Center Zoning District or significant renovation or material alteration of the exterior of an existing building or structure in the Town Center Zoning District.

d. Application Requirements

The owner(s) of a property may file an application for a Site Plan Review or the owners' authorized agent with the Building Official. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
 - (a) The date, scale, north point, title, name of owner, and name of person preparing the site plan.
 - (b) The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
 - (c) The location, size, and use of proposed and existing structures on the site.
 - (d) The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, utilities, service areas, fencing, screening, landscaping, and lighting.
 - (e) Location of any major site feature, including drainage and contours at no greater than five foot intervals.
 - (f) Any other information that may be required for review by the Building Official.

e. Approval Process

1. The Planning Commission, following proper notice, shall hold a public hearing and take action on each application for Site Plan Review, in accordance with the criteria set forth

in Table 12-1. Building permits shall be issued only in conformance with the Site Plan approved by the Planning Commission.

2. If the Planning Commission denies an application for Site Plan Review, the applicant may appeal such denial to the City Council. The City Council, after publication and public hearing, shall act on the appeal. A majority plus one of the City Council shall be required to reverse the denial of the Planning Commission. In cases of appeal, building permits shall be issued only in conformance with the Site Plan approved by the City Council.

f. Criteria for Review

1. The Planning Commission and City Council shall review the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Ordinance, including the following criteria.
 - (a) The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 12- 1.
 - (b) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
 - (c) The site plan conforms to the Zoning Ordinance.

g. Modification of Site Plan

The Planning Commission and City Council may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, or welfare.

h. Term and Modification of Approval

1. A Site Plan Approval shall become void two years after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period. Any project that is not completed or substantially under construction within one year of the date of the site plan approval shall submit a written report on progress of the project to the Building Official.
2. The Planning Commission shall have the authority to grant a one-year extension of the Site Plan Approval at its discretion.

3. The Planning Commission may recommend to the City Council that a Site Plan Approval be revoked, if it determines that the development is not complying with the terms and conditions of the approval. Such revocation shall be determined by the City Council.

i. Approval to Run With Land

An approval pursuant to this section shall run with the land until the expiration date of such approval.

12-3 Special Use Permit Procedure

a. Purpose

The Special Use Permit Procedure provides for public review and discretionary City Council approval for uses within zoning districts, which have unusual site development, or operating characteristics that could adversely affect surrounding properties.

b. Administration

The Planning Commission shall review and evaluate each application and transmit its recommendation to the City Council. The City Council shall review, evaluate, and act upon all applications submitted pursuant to this procedure.

c. Application Requirements

An application for a Special Use Permit may be filed by the owner(s) of a property or the owners' authorized agent with the Building Official. The application shall include the following information:

1. Name and address of the applicant.
2. Address and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
 - (a) The date, scale, north point, title, name of owner, and name of person preparing the site plan.
 - (b) The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
 - (c) The location, size, and use of proposed and existing structures on the site.

(d) The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.

(e) Location of any major site feature, including drainage and contours at no greater than five-foot intervals.

5. Any other graphic information necessary to describe the proposed use to approving agencies.
6. Any other information that may be required for review by the Planning Commission and/or the City Council.

d. Approval Process

1. The Planning Commission, following proper notice, shall hold a public hearing on each Special Use Permit and, following such public hearing, shall recommend action to the City Council.
2. The City Council, after publication and public hearing, shall act on the Special Use Permit. If the Planning Commission recommends denial of the Special Use Permit, a majority plus one of the City Council is required for approval. The City Council may apply any reasonable conditions to the approval of the permit.

e. Criteria for Review

1. The Planning Commission and the City Council shall review and approve the special use application based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Ordinance.

f. Scope of Approval

1. A Special Use Permit shall run with the land. However, the City Council may, at its discretion, apply a Special Use Permit to a specific owner or applicant.

g. Lapse and Revocation of Permit

1. A Special Use Permit shall become void two years after its effective date if the applicant has not carried out development or occupancy during that period. The City Council shall have the authority to grant a one-year extension of the permit at its discretion.
2. The City Council may revoke a Special Use Permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

h. Previously Approved Permits

Any special use approved under regulations in effect before the effective date of this Ordinance shall be considered to have a valid Special Use Permit, subject to requirements imposed at the time of its approval.

12-4 Amendment Procedure

a. Purpose

The Amendment Procedures describe the methods by which changes may be made in the text of the Zoning Ordinance (text amendment) and/or the official boundaries of zoning districts (rezoning).

b. Initiation of Amendments

1. Text amendments may be initiated by the Planning Commission or City Council.
2. Rezoning may be initiated by a property owner or documented authorized agent; the Planning Commission; or the City Council.

c. Rezoning Application Requirements

An application for a rezoning may be filed with the Building Official. The application shall include the following information:

1. Name and address of the applicant and any documented authorized agent.
2. Address and legal description of the property.
3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, or other drawings, necessary to describe the proposed use to approving agencies.
5. Names and addresses of all property owners within 300 feet of the perimeter of the parcel.

d. Amendment Process

1. The Planning Commission, following proper notice, shall hold a public hearing on each proposed text amendment or rezoning and, following such public hearing, shall recommend action to the City Council.
2. The City Council, after publication and public hearing, shall act on the proposed amendment. If the Planning Commission recommends denial of the amendment, a majority plus one of the City Council is required for approval.

e. Required Notice and Publication

Prior to consideration of ending, supplementing, changing, modifying, or repealing this ordinance by the governing body, notice of public hearings shall be provided as follows:

1. **Notice:** A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen inches in height and twenty-four inches in width with a white background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.
2. **Publication:** At least ten days before the date of hearing the City Clerk shall have published in a local newspaper having a general circulation in the City of Ralston a Notice of the time, place and subject matter of such hearing.
3. **Adjacent Property Owners:** The City Clerk shall mail notice of the proposed action to property owners located within 300 feet of the perimeter of the parcel upon which action is pending.

12-5 Extension of the Extra-Territorial Jurisdiction

Upon the automatic extension of the two-mile Extra-Territorial Jurisdiction due to annexation, the City Council shall zone properties within the newly established Jurisdiction concurrent with adoption of the annexation ordinance. The zoning shall consider the Comprehensive Development Plan of the City of Ralston and the present use of the land.

12-6 Building Permits and Certificates of Zoning Compliance

a. Administration and Enforcement.

The Building Official shall administer and enforce this ordinance. The City Council may direct other persons to assist him/her.

If the Building Official shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

b. Building Permits Required

No non-farm building or other non-farm structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official. No building

permit shall be issued by the administrative official except in conformity with the provisions of this ordinance, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this ordinance.

c. Application for Building Permit.

All applications for non-farm building permits shall include plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance.

One copy of the plans shall be returned to the applicant by the Building Official, after he/ she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one copy of the plans, similarly marked, shall be retained by the administrative official.

d. Certificates of Zoning Compliance for New, Altered or Non-Conforming Uses.

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use, or structure until a certificate of zoning compliance shall have been issued therefore by the administrative official stating that the proposed use of the building or land conforms to the requirements of this ordinance.

e. Expiration of Building Permit

If the work described in any building permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Building Official; and written notice thereof shall be given to the persons affected. The Ralston Municipal Code and Uniform Building Code shall govern extensions beyond this limit.

If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, as indicated by inspections performed every 180 days, said permit shall expire and be cancelled by the administrative official. Upon expiration, written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

f. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the building official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed to be in violation of this ordinance, and punishable as provided by this Article.

12-7 Schedule of Fees, Charges and Expenses.

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance.

The schedule of fees shall be posted in the office of the building official, and may be altered or amended only by the City Council.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

12-8 Board of Adjustment.

a. Establishment

1. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided by this Section. The Board shall consist of five regular members, plus one additional alternate member who shall attend and vote only when one of the regular members is unable to attend for any reason.
2. Each member shall be appointed by the Mayor with the approval of the City Council for a three-year term and is removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
3. The Board of Adjustment shall adopt rules and regulations in accordance with this ordinance and the laws of the State of Nebraska pursuant to Sections 19-901 to 19-914 of Nebraska Revised Statutes. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The Board shall keep a record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. Presence of four members of the Board shall constitute a quorum for the transaction of business.

b. Procedure for Appeals

1. Appeals shall be made to the Board of Adjustment within thirty (30) days of the cause of the appeal through the office of the Building Official in written form as determined by the Building Official. The Board shall fix a reasonable time for the hearing of the appeal and shall decide the appeal within 30 days of the date of the public hearing. An appeal stays all proceedings in furtherance of the action, unless the Building Official certifies to the Board that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by the District Court on notice to said officer and on due cause shown.
2. The Board shall provide a minimum of ten days notice of a public hearing on any question before it. Notice of the hearing shall be posted in a conspicuous place on or near the property on which the application has been made; by publication in a newspaper of general circulation in the City of Ralston; and by written notice to the appealing party.
3. Upon the public hearing, any party may appear in person or by agent or attorney. The concurring vote of four out of five members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any building official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such ordinance.

12-9 Powers and Duties of the Board Of Adjustment

The Board of Adjustment shall have only the following powers and duties:

- a. **Administrative Review.** To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Building Official in the enforcement of this Ordinance or any regulation relating to the location or soundness of structures.
- b. **Interpretation of Zoning Map.** To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.
- c. **Variances to Relieve Hardships Relating to Property.** To authorize, upon appeal, variances from the strict application of this Ordinance where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, such strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.

1. **Requirements for Grant of a Variance.** No such variance shall be authorized by the Board unless it finds that:

(a) Strict application of the zoning ordinance will produce undue hardship.

(b) Such hardship is not shared generally by other properties in the same zoning district

and in the same vicinity.

(c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

(e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this Zoning Ordinance.

(f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

2. Findings by Board. The Board of Adjustment shall make findings that the requirements of Article 12-9 have been met by the applicant for a variance.

3. Conditions for Grant of Variance.

(a) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Article 12 of this Ordinance.

(b) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

(c) No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(d) Board has Powers of Building Official on Appeals: Reversing Decisions of Building Official.

In exercising the above mentioned powers the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination, as ought to be made, and to that end shall have the powers of the Building Official from whom the appeal is taken.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the administrative official, or to decide in favor of

the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

12-10 Appeals from the Board of Adjustment.

Any person or persons, or any board, taxpayer, officer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment may seek review of such decision by the District Court for the County in the manner provided by the laws of the State and particularly by 19-912 R.R.S. 1943 (Reissue 1991), and amendments thereto.

12-11 Duties of Building Official, Board of Adjustment, City Council, and Courts on Matters of Appeal.

a. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Building Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Building Official, and that recourse from the decisions of Board of Adjustment shall be to the courts as provided by law.

b. Under this ordinance the City Council shall have only the duties (1) of considering and adopting or rejecting proposed amendments, or the repeal of this ordinance as provided by law; (2); of review and approval of Special Use Permits and Site Plans; and (3) of establishing a schedule of fees and charges as stated in Article 12 of this Ordinance.

12-12 Severability Clause.

Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

12-13 Complaints Regarding Violations.

Whenever a violation of this resolution occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Building Official. He/she shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

12-14 Penalties for Violation.

a. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 100.00 or imprisoned for not more than 30 days, or both, and in addition shall

pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

b. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

c. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

Table 12-1: Criteria For Site Plan Review And Special Use Permits

	CRITERIA	APPLICATION TO	
		Site Plan Review	Special Use Permit
Land Use Compatibility			
Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features.		X
Height and Scale			
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	X	X
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.	X	X
Building Coverage	Building coverage should be similar to that of surrounding development if possible. Higher coverage should be mitigated by landscaping or site amenities.	X	X
Site Development			
Frontage	Project frontage along a street should be similar to lot width.	X	X
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	X	X
	All structures must be accessible to public safety vehicles.	X	X
	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	X	X
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainage-ways should be preserved.	X	X
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations.		X
Operating Characteristics			
Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	X	X
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	X	X
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	X	X

Table 12-1: Criteria For Site Plan Review And Special Use Permits

	CRITERIA	APPLICATION TO	
		Site Plan Review	Special Use Permit
Operating Characteristics			
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X
Public Facilities			
Sanitary Waste Disposal	Developments within 500 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.	X	X
	Sanitary sewer must have adequate capacity to serve development.	X	X
Storm Water Management	Development should handle storm water adequately to prevent overloading of public storm water management system.	X	X
	Development should not inhibit development of other properties.	X	X
	Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	X	X
Utilities	Project must be served by utilities.	X	X
Comprehensive Plan	Projects should be consistent with the Comprehensive Development Plan for the City of Ralston.		X