

Introduced: July 3, 2018  
Passed: July 3, 2018  
Published: July 7, 2018

**ORDINANCE NO 2018- 15**

**AN ORDINANCE AMENDING ARTICLE V. CONDITIONAL AND SPECIAL USE PERMITS OF CHAPTER 27 OF THE CODE OF THE CITY OF HUTCHINSON, KANSAS.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HUTCHINSON, KANSAS:

**Section 1.** That Article V. Conditional and Special Use Permits, of Chapter 27 of the Code of the City of Hutchinson, Kansas be amended to read as follows:

**Article V. Conditional Use Permits, Special Use Permits and Administrative Adjustments**

**Sec. 27-501 Conditional Use Permits.**

A. Intent.

Some types of land uses have unique characteristics or may impact the surrounding environment. Within a given zoning district, some land uses may be allowed only after a conditional use permit has been issued. Where specifically required by these regulations, conditional use permits shall be issued before:

1. New construction of any type may occur;
2. Construction of an addition may occur to an existing building where the total gross floor area of the addition totals 30 percent or more of the total gross floor area of the original building; or
3. A new land use of a different land use category than the former land use is permitted.

B. Application Procedure.

1. To obtain a conditional use permit, as provided for in these regulations, the property owner or authorized agent shall file an application. The application shall be filed with the Zoning Administrator. The application shall contain, at minimum:
  - a. A copy of the deed to the property;
  - b. The legal description of the pertinent parcel or parcels and a certified listing from either the Reno County Appraiser's Office or a title company of the names and addresses of all owners of all parcels or portions of parcels within 200 feet of the outer boundaries of the parcel or parcels within the City limits or within 1,000 feet of the outer

boundaries of the parcel or parcels outside the City limits to which the application applies;

- c. A statement of the proposed use of each parcel or parcels;
  - d. A sketch plan, drawn to scale, showing the location and exterior dimensions of all existing and proposed structures, yard improvements, landscaping, driveways, off-street parking areas, pedestrian walks and areas, storm water drainage facilities and exterior lighting fixtures in relation to parcel boundaries and adjacent street rights-of-way;
  - e. A list of the height or heights of any existing and proposed structures;
  - f. A statement listing property taxes and special assessments and a declaration that all of same have been paid; and
  - g. Any other information necessary to determine compliance of the proposed use with the terms of these regulations.
2. The applicant shall submit a written statement with the pertinent application at the time such application is submitted to the Zoning Administrator. Written statements should address:
- a. How the proposed use is in keeping with the character of the neighborhood;
  - b. Whether the proposed use is consistent with the zoning and uses of nearby parcels;
  - c. The suitability of the parcel for its current zoning and use compared to the proposed use;
  - d. The extent of detrimental effects of the proposed use to nearby properties;
  - e. The length of time the property has been vacant prior to submittal of the application;
  - f. The hardship imposed upon the property owner if the application were denied;
  - g. How the proposed use helps to implement the Comprehensive Plan;
  - h. Whether public facilities and utilities are adequate to serve the proposed use;
  - i. Aspects of the proposed use which minimize impacts on the neighborhood, nearby properties, the public health, safety and welfare, and public facilities and utilities; and
  - j. Any other information that the property owner or authorized agent desires to submit including photographs, drawings, maps, statistics, legal documents, letters of support and other pertinent materials.

C. Conditional Use Permit Process.

- 1. Upon receipt of an application for a conditional use permit, the following procedures shall apply:
  - a. The Zoning Administrator shall set the date of a Planning Commission public hearing concerning the application. The public hearing shall be held within 60 days after the submittal date. The

- application shall be submitted in accordance with the application deadline schedule.
- b. The Zoning Administrator shall publish a notice of the public hearing concerning the proposed conditional use permit in the official newspaper at least 20 days before the public hearing. The notice shall describe the proposal in general terms and list the time and place of the public hearing.
  - c. The Zoning Administrator shall prepare a staff report which may summarize the applicable sections of these regulations including:
    - (i.) The character of the neighborhood;
    - (ii.) Existing land uses on neighboring parcels;
    - (iii.) Current zoning district boundaries; examine the suitability of the property for its current zoning and use compared to the proposed use;
    - (iv.) Possible detrimental effects on neighboring property if the application were approved;
    - (v.) Length of time the property has remained vacant as presently zoned;
    - (vi.) Comparison of the public health, safety and welfare gains to the hardship imposed on the landowner if the application were denied;
    - (vii.) Examine whether the proposed use conforms to the Comprehensive Plan;
    - (viii.) The impact of the proposed use on public facilities and utilities; and
    - (ix.) Other pertinent information and evaluations.
  - d. Copies of the public hearing notice shall be mailed to all owners of land located within 200 feet of the area designated in the proposed conditional use permit and land within 1,000 feet in unincorporated areas if the subject property is adjacent to the city limits. The notice shall indicate the time and place of the public hearing and invite interested individuals to appear and be heard. Failure to receive the notice shall not invalidate any subsequent action taken when the notice has been properly addressed and deposited in the mail. Comments may be solicited from Reno County, the City of South Hutchinson, the County Health Officer, and other affected agencies. Copies of the application, staff report and other relevant information shall be made available for the public to view.
  - e. Prior to the public hearing, the Zoning Administrator shall notify the Planning Commission of the case, transmit copies of the application and staff report, forward copies of any associated correspondence and provide other pertinent reports and materials.
  - f. The Planning Commission shall conduct the public hearing according to any adopted procedures and consistent with Kansas law. During the public hearing, the Zoning Administrator shall make

- recommendations. The public hearing may be adjourned from time to time.
- g. The Planning Commission shall make a recommendation to the City Council. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the conditional use permit to the City Council. The Planning Commission may recommend approval of the conditional use permit or denial of the application.
  - h. The City Council shall consider the recommendation of the Planning Commission at a regularly scheduled meeting after the public hearing. The City Council shall be provided copies of all pertinent materials and a record of the public hearing. The City Council may approve an ordinance adopting the recommendation, override the Planning Commission's recommendation by a two-thirds vote of the membership of the City Council, or return the recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.
  - i. Should the City Council return an application to the Planning Commission for reconsideration, the Planning Commission, after considering the application at its next regularly scheduled meeting, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. If the Planning Commission fails to act within this time limit, the original recommendation shall be resubmitted to the City Council. Upon receipt of the recommendation, the City Council, by a simple majority, may adopt or may revise or amend and adopt the recommendation, or it need take no further action thereon.
  - j. The conditional use permit shall become effective upon approval by the City Council.
2. The Planning Commission may recommend and the City Council may approve a conditional use permit and may impose conditions including but not limited to the following:
- a. It may be stipulated that a parcel shall be developed according to a specific site plan.
  - b. It may be stipulated that screening and landscaping are required as shown on a specific site plan.
  - c. Permitted land uses, including accessory and temporary uses, may be specified.
  - d. Off-street parking areas and parking lots including:
    - (i.) Surfacing material and landscaping;
    - (ii.) Buffering, screening, and barriers;
    - (iii.) Orientation and layout;
    - (iv.) Accessibility, entrances and exits;
    - (v.) Impervious surfaces and storm water drainage;
    - (vi.) Signage and lighting; and

- (vii.) Maintenance and security.
- e. The number and location of curb cuts may be specified.
- f. Additional easements for utilities, egress and/or ingress.
- g. Special conditions that are required to accommodate new technologies and/or design solutions.
- h. Time limits of 30 days, 60 days, 90 days, 180 days or one year may be set to meet specific conditions of a conditional use permit.
- i. The material used to cover any structure elevation may be specified as completely or some combination of metal siding, stucco, shingles, vinyl siding, wood siding, brick, stone blocks, exposed stone panels, concrete, glass blocks, plate glass, decorative tiles, or other material.
- j. In commercially zoned districts, parcels that directly abut residential districts may be subject to regulation of hours of operation for outdoor activities. Directly abut means to have a common boundary or to have a common boundary upon an intervening alley.
- k. Any other conditions necessary to mitigate the impacts of the use and make the proposed use compatible with the neighborhood and surrounding properties.

D. Matters To Be Considered.

The Planning Commission and the City Council shall consider the following factors when approving or disapproving a conditional use permit request:

1. The character of the neighborhood;
2. The zoning and uses made of nearby property;
3. The suitability of the parcel for its current zoning and use compared to the proposed use;
4. The extent of detrimental effects to nearby properties if the application were approved;
5. The length of time the property has remained vacant prior to submittal of the application;
6. The relative gain to the public health, safety and welfare compared to the hardship imposed upon the landowner if the application were denied;
7. The conformance of the application to the comprehensive plan of the City;
8. The impact of the proposed use on public facilities and utilities; and
9. The recommendations of the professional city staff and their representatives.

E. Reapplication upon a Denial.

When a conditional use permit has been denied by the City Council, said action shall be final. Reapplication for the same use shall not be accepted or processed by the City until 365 days after date when the initial permit was denied by the City Council.

## **Sec. 27-502 Special Use Permits.**

### **A. Intent.**

Some types of land uses have unique characteristics or a need to mitigate special impacts on the surrounding environment. Within a given zoning district, some land uses may be allowed only after a special use permit has been reviewed and approved by the Board of Zoning Appeals. In such cases, special use permits shall be issued before:

1. New construction of any type may occur;
2. Construction of an addition may occur to an existing building where the total gross floor area of the addition totals 30 percent or more of the total gross floor area of the original building; or
3. A new land use which is of a different land use category than the former land use may occupy a parcel.

### **B. Application Procedure.**

1. To obtain a special use permit, the property owner or authorized agent shall file an application with the Zoning Administrator. The application shall contain, at minimum:
  - a. A copy of the property deed;
  - b. The legal description of the pertinent parcel or parcels and a certified listing from either the Reno County Appraiser's Office or a title company of the names and addresses of all owners of all parcels or portions of parcels within 200 feet of the outer boundaries of the parcel or parcels within the City limits or within 1,000 feet of the outer boundaries of the parcel or parcels outside the City limits to which the application applies;
  - c. A statement of the proposed use of each parcel or parcels;
  - d. A sketch plan, drawn to scale, showing the location and exterior dimensions of all existing and proposed structures, yard improvements, landscaping, driveways, off-street parking areas, pedestrian walks and areas, storm water drainage facilities and exterior lighting fixtures in relation to parcel boundaries and adjacent street rights-of-way;
  - e. A list of the height or heights of any existing and proposed structures;
  - f. A statement listing property taxes and special assessments and a declaration that all of same have been paid; and
  - g. Any other information necessary to determine compliance of the proposed use with the terms of these regulations.
2. The applicant shall submit a statement which shall become part of and be attached to the pertinent application. Statements shall be completed in writing and submitted to the Zoning Administrator when the pertinent application is submitted. Statements should address:
  - a. How the proposed use is in keeping with the character of the neighborhood;

- b. Whether the proposed use is consistent with the zoning and uses made of nearby parcels;
- c. The suitability of the parcel for its current zoning and use compared to the proposed use;
- d. The extent of detrimental effects of the proposed use to nearby properties;
- e. The length of time the property has been vacant prior to submittal of the application;
- f. The hardship imposed upon the property owner if the application is denied;
- g. How the proposed use helps to implement the Comprehensive Plan;
- h. Whether public facilities and utilities are adequate to serve the proposed use;
- i. Aspects of the proposed use which minimize impacts on the neighborhood, nearby properties, the public health, safety and welfare, and public facilities and utilities; and
- j. Any other information that the property owner or authorized agent desires to submit including photographs, drawings, maps, statistics, legal documents, letters of support and other pertinent materials.

C. Special Use Permit Process.

1. Upon receipt of an application for a special use permit, the following procedures shall apply:
  - a. The Zoning Administrator shall set the date of a Board of Zoning Appeals public hearing concerning the application. The public hearing shall be held within 60 days after the submittal date. The application shall be submitted at least 30 days prior to a scheduled Board of Zoning Appeals meeting.
  - b. The Zoning Administrator shall publish a notice of the public hearing concerning the proposed special use permit in the official newspaper at least 20 days before the public hearing. The notice shall describe the proposal in general terms and list the time and place of the public hearing.
  - c. The Zoning Administrator shall prepare a staff report which may summarize the applicable sections of these regulations including:
    - (i.) the character of the neighborhood;
    - (ii.) existing land uses on neighboring parcels;
    - (iii.) current zoning district boundaries;
    - (iv.) examine the suitability of the property for its current zoning and use compared to the proposed use;
    - (v.) possible detrimental effects on neighboring property if the application were approved;
    - (vi.) length of time the property has remained vacant prior to submittal of the application;

- (vii.) comparison of the public health, safety and welfare gains to the hardship imposed on the landowner if the application were denied;
  - (viii.) examine whether the proposed use conforms to the Comprehensive Plan;
  - (ix.) the impact of the proposed use on public facilities and utilities; and
  - (x.) other pertinent information and evaluations.
- d. Copies of the public hearing notice shall be mailed to all owners of land located within 200 feet of the area designated in the proposed conditional use permit and land within 1,000 feet in unincorporated areas if the subject property is adjacent to the city limits. The notice shall indicate the time and place of the public hearing and invite interested individuals to appear and be heard. Failure to receive the notice shall not invalidate any subsequent action taken when the notice has been properly addressed and deposited in the mail. Comments may be solicited from Reno County, the City of South Hutchinson, the County Health Officer, and other affected agencies. Copies of the application, staff report and other relevant information shall be made available for the public to view.
  - e. Prior to the public hearing, the Zoning Administrator shall notify the Board of Zoning Appeals of the case, transmit copies of the application and staff report, forward copies of any associated correspondence and provide other pertinent reports and materials.
  - f. The Board of Zoning Appeals shall conduct the public hearing according to any adopted procedures and consistent with Kansas law. During the public hearing, the Zoning Administrator shall make recommendations. The public hearing may be adjourned from time to time.
  - g. The Board of Zoning Appeals shall make a final determination. A majority of the members of the Board of Zoning Appeals present and voting at the hearing shall be required to make a determination. All decisions of the Board of Zoning Appeals shall be final.
  - h. The special use permit shall become effective upon approval by the Board of Zoning Appeals.
2. Any appeal of a determination of the Board of Zoning Appeals shall be filed with the District Court of the County within 30 days of said determination.
  3. The Board of Zoning Appeals may impose conditions including but not limited to the following:
    - a. Permitted land uses including accessory and temporary uses may be specified.
    - b. The number and location of curb cuts may be specified.
    - c. Additional easements for utilities, egress and/or ingress.
    - d. Special conditions that are required to accommodate new technologies and/or design solutions.

- e. Time limits of 30 days, 60 days, 90 days, 180 days or one year may be set to meet specific conditions of a special use permit.
- f. The material used to cover any structure elevation may be specified as completely or some combination of metal siding, stucco, shingles, vinyl siding, wood siding, brick, stone blocks, exposed stone panels, concrete, glass blocks, plate glass, decorative tiles, or other material.
- g. It may be stipulated that a parcel shall be developed according to a specific site plan.
- h. It may be stipulated that screening and landscaping are required as shown on the site plan.
- i. In commercially zoned districts, parcels that directly abut residential districts may be subject to regulation of hours of operation for outdoor activities. Directly abut means to have a common boundary or to have a common boundary upon an intervening alley.
- j. Off-street parking areas and parking lots.
- k. Any other conditions necessary to make the proposed use compatible within the area and adjacent properties.

D. Matters To Be Considered.

The Board of Zoning Appeals shall consider the following factors when approving or disapproving a special use permit request:

- 1. The character of the neighborhood;
- 2. The zoning and uses made of nearby property;
- 3. The suitability of the property for its current zoning and use compared to the proposed zoning and use;
- 4. The extent of detrimental effects to nearby properties if the application were approved;
- 5. The length of time the property has remained vacant;
- 6. The relative gain to the public health, safety and welfare compared to the hardship imposed upon the landowner if the application were denied;
- 7. The conformance of the application to the comprehensive plan of the City;
- 8. The impact of the proposed use on public facilities and utilities; and
- 9. The recommendations of the professional city staff and their representatives.

E. Reapplication upon a Denial.

When a special use permit has been denied by the Board of Zoning Appeals, said action shall be final. Reapplication for the same use shall not be accepted and processed by the City until 365 days after the date when the initial permit was denied by the Board of Zoning Appeals.

**Sec. 27-503 Administrative Adjustments.**

A. Intent.

The intent of administrative adjustments is to allow for flexibility in property development without requiring the added time and expense of a public hearing.

Administrative adjustments are allowed for minor deviations in regulations that facilitate development / redevelopment of properties, and which are deemed to have minimal impacts on health, safety, morals, comfort and general welfare of the public.

B. Definitions.

The following definitions apply specifically to this Section:

1. **Administrative Adjustment** shall mean a minor adjustment from the development standards required by the Hutchinson Zoning Regulations.
2. **Primarily Impacted Parties** shall mean persons owning property located within the legal notification radius for exceptions, as well as others who own property outside the notification radius, who provide written evidence of the adjustment's adverse impacts on health, safety, morals, comfort and general welfare of the public.

C. Application Procedure.

1. To obtain an administrative adjustment, the property owner or authorized agent shall file an application with the Zoning Administrator. The application shall contain, at minimum:
  - a. A copy of the property deed;
  - b. A statement of the proposed use of each parcel or parcels;
  - c. A sketch plan, drawn to scale, showing the location and exterior dimensions of all existing and proposed structures, yard improvements, landscaping, driveways, off-street parking areas, pedestrian walks and areas, storm water drainage facilities and exterior lighting fixtures in relation to parcel boundaries and adjacent street rights-of-way;
  - d. The application fee, as established in the Master Fee Schedule. Each administrative adjustment for the same property shall be considered a separate application;
  - e. A list of the height or heights of any existing and proposed structures;
  - f. A detailed listing of the regulation from which an administrative adjustment is requested and the reason for the request; and
  - g. Any other information necessary to determine compliance of the proposed development with the terms of these regulations.

D. Administrative Adjustment Process.

1. Upon receipt of an application for an administrative adjustment, the following procedures shall apply:
  - a. The Zoning Administrator shall provide the applicant with a portable sign that includes the following information:
    - (i). Title: Zoning Action Pending
    - (ii). Contact information for the Planning & Development Department
    - (iii). Brief summary of the requested adjustment

- b. Said sign shall be posted on the subject property for a minimum of 10 days. Verification of posting may be required.
- c. Should the City receive no adverse public comments from primarily impacted parties during the 10-day notice period, the adjustment shall be approved by the Zoning Administrator.
- d. Should the City receive adverse public comments during the 10-day notice period, the Zoning Administrator shall deny the administrative adjustment request. The applicant shall have the following options when an administrative adjustment is denied:
  - (i). Accept denial of the request;
  - (ii). Modify the proposed project to meet the requirements of the regulations and proceed with the review/approval process; or
  - (iii). Appeal to the Board of Zoning Appeals for an Exception (see Sec. 27-1111 of these regulations). Appeals shall be filed within 30 days of the denial date.
- e. Applicants opting to appeal to the Board of Zoning Appeals shall pay the Exception fee, as established in the Master Fee Schedule, and submit any additional documents required by Sec. 27-1111.

E. Development Standards Eligible for Administrative Adjustment.

The Zoning Administrator is authorized to issue administrative adjustments in accordance with the above procedures only for those zoning standards and in those amounts provided below:

- 1. Setback.
  - a. Reducing required side, front or rear setback for primary structures by up to 20 percent, provided that the minimum provisions of the Building Code for separation of structures is met.
  - b. Authorizing an addition to an existing nonconforming structure in line with the existing setback, as long as the following criteria are met:
    - (i.) Side yard setback reduction: Existing structure is located a minimum of 3 feet from the side property line (residential structures) and 5 feet from the property line (commercial/industrial structures);
    - (ii.) Front yard setback reduction: Existing structure is located a minimum of 10 feet from the property line;
    - (iii.) Rear yard setback reduction: Existing structure is located a minimum of 10 feet from the property line.
- 2. Maximum Height.
  - a. Increasing the maximum height for a principal structure by up to 20 percent.
  - b. Increasing the maximum height for an accessory structure by up to 30 percent.
- 3. Lot Coverage.
  - a. Increasing maximum lot coverage by up to 10 percent.

4. Parking.
  - a. Reducing required parking spaces by up to 10 percent, provided that no parking reduction shall impact accessible spaces.
5. Accessory Structures.
  - a. Allowing for an accessory structure to exceed the maximum lot coverage by up to 10 percent and the maximum allowable area by up to 20 percent.
  - b. Allowing for an accessory structure to have a reduced setback, according to the following:  
Residential – 3 feet minimum setback.  
Commercial / Industrial / Other – 5 feet minimum setback.
  - c. Allowing for a carport to be located on the front of a residential structure provided it meets the setback requirements of the Zoning District and is composed of wood or a combination of wood and other elements typically associated with residential construction.
  - d. Allowing for accessory structures associated with residential development to be placed in the front yard, where all of the following apply:
    - (i). The property is a minimum of 3 acres in size; and
    - (ii). The accessory structure meets the minimum setbacks of the Zoning District; and
    - (iii). The accessory structure is comprised of wood or a combination of wood and other elements typically associated with residential construction.
  - e. Allowing for accessory structures associated with industrial uses to be placed in the front yard provided the setback for the Zoning District is met.
6. Signs
  - a. Increase the maximum height of a freestanding sign by up to 25 percent.
  - b. Increase the maximum area of any permitted sign by up to 25 percent.

F. Reapplication upon a Denial.

When an administrative adjustment has been denied by the Zoning Administrator, said action shall be final unless appealed. Reapplication for the same adjustment shall not be accepted and processed by the City until 365 days after the date when the initial adjustment was denied by the Zoning Administrator.

**Section 2.** That the existing Article V. Conditional and Special Use Permits of Chapter 27 of the Hutchinson City Code is hereby repealed.

**Section 3.** This ordinance shall take effect and be in force from and after its passage and publication once in the official City newspaper.

**PASSED BY THE GOVERNING BODY**, this 3rd day of July, 2018, for the City of Hutchinson, Kansas.

Steven A. Dechant, Mayor

ATTEST:

Karen Weltmer, City Clerk