

Ordinance No. 6232

**AN ORDINANCE AMENDMENT TO MODIFY SECTION 17.50.070 OF THE
RAPID CITY MUNICIPAL CODE**

WHEREAS, the City of Rapid City has adopted a zoning ordinance in Title 17 of the Rapid City Municipal Code (R.C.M.C.) to promote the safety, health, morals, convenience and general welfare; and

WHEREAS, R.C.M.C. 17.50.070 establishes an administrative exception process to allow the Director of the Community Planning and Development Services Department to give administrative approval of minor deviations from the zoning district standards, development standards, and area regulations within all zoning districts; and

WHEREAS, the Community Development Services Department is now called the Community Development Department; and

WHEREAS, R.C.M.C. 17.50.070.C establishes that the Director is authorize to grant deviations of up to 20% of any minimum or maximum zoning district standards, development standards, and area regulations; and

WHEREAS, the City of Rapid City desires to create the Urban Commercial District as part of implementation of the Downtown Area Master Plan adopted by the Common Council in October 2016; and

WHEREAS, the Urban Commercial District authorizes the Community Development Director to grant exceptions of more than 20% in the case of demonstrated hardship; and

WHEREAS, the Common Council wishes to amend its ordinance permitting administrative exceptions to the zoning code in to incorporate regulations for the new Urban Commercial District in order to advance the health, safety, and general welfare of its citizens.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Chapter 17.50.070 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

17.50.070 Administrative exceptions.

A. *Purpose.* The purpose of the administrative exception process is to allow for the administrative approval of minor deviations from the zoning district standards, development standards, and area regulations within all zoning districts. An administrative exception is a form of relief granted to a landowner when the strict application of a particular regulation would result in peculiar, exceptional, or practical difficulties upon the property owner. Such relief shall only be granted provided there will be no substantial detriment to the public health, safety, and welfare of the present and future inhabitants of the eCity.

B. *Intent.* The intent of the administrative exception process is to allow the Community Development Director ~~of the Development Services~~ to approve minor variations from the zoning ordinance. It is further intended that minor variations to the eCode may be approved to address:

1. A property constraint such as lot configuration or lot area;
2. A topographic, geological, hydrological, or environmental factor;
3. A non-conforming issue for pre-existing structures;
4. A new construction issue caused by survey or construction error; and
5. A new construction proposal that is innovative and/or would not cause substantial detriment to the public good or significantly impair the purposes and intent of these regulations.

C. *General provisions.* The Director ~~of Community Planning and Development Services~~ is authorized by the City Council to approve minor exceptions provided the application complies with the process outlined within this sSection. In no circumstance shall the Director approve a minor modification that results in a change in permitted land uses that would require the approval of a conditional use permit or rezoning of the property.

1. The Director is authorized to grant deviations of up to 20% of any minimum or maximum zoning district standards, development standards, and area regulations including but not limited to:

- a. Development density or intensity;
- b. Building lot coverage;
- c. Lot frontage, lot depth, and lot area;
- d. Building floor area, setback and height;
- e. Parking, loading and unloading spaces;
- f. Landscape standards; and
- g. Fence height and setback.

2. The Director is also authorized to grant deviations from any specific location and/or material requirements prescribed in this eChapter including but not limited to:

- a. A change in the requirement for screen fence and/or open style fence;
- b. A building material type or amount;

- c. Location and height of fencing;
- d. Location of landscaping and landscape buffer;
- e. Location of trash and service areas;
- f. Location of parking areas, access lanes, and loading stalls;
- g. Location of sidewalk, pedestrian and bicycle facilities;
- h. Location of utility cabinets and appurtenances; and
- i. Any other location and/or building material requirement which the Community ~~Planning and Development Services~~ Director determines to be insignificant in nature.

3. In the Urban Commercial District, the Director is authorized to grant deviations under (1) and (2) and is authorized to grant other exceptions as identified in Chapter 17.66 when an exception is supported by the adopted comprehensive plan.

D. *Application requirements.* To initiate an application for an administrative exception, an application shall be submitted to the Community ~~Planning and Development Services~~ Department and include the following:

- 1. An application form signed by the property owner or authorized representative and fee;
- 2. A written narrative explaining and justifying the request; and
- 3. A site plan drawn to scale showing all property lines with dimensions, location of buildings and other structures, north arrow, street numbers, lot and/or parcel number, locations of setback lines or other dimensional requirements from which the administrative exception is sought.

E. *Approval process.* Upon receipt of a complete application and the required information, the Director shall have 7 working days from receipt of the application to complete the review and to recommend approval, denial, or suspension of the application. If the Director determines that the application does not contain the specified and required information, the review timeline shall be suspended and the applicant shall be notified of the deficiency. When complete and sufficient information is provided by the applicant, the review timeline shall be re-engaged, with an additional 3 working days added to the remaining balance of the review timeline. The Director shall approve the application, approve the application with conditions, or deny the application. An administrative exception may be approved by the Director upon determination that 1 or more of the following findings exists:

- 1. There are certain conditions pertaining to the particular piece of property in question because of its size shape, or topography;

2. The application of these regulations to this particular piece of property would create a practical difficulty or undue hardship;

3. Exceptions, if granted, would not cause undue hardship to the public good or impair the purposes and intent of these regulations;

4. A literal interpretation of this eChapter would deprive the applicant of rights that others in the same district are allowed;

5. Any adverse impacts will be reasonably mitigated; or

6. The requested exception is an alternative or innovative practice that reasonably achieves the objective of the existing standard sought to be modified.

F. *Appeals.* The decision of the Director to approve the application with conditions or deny any application under the administrative exception review process may be appealed to the Board of Adjustment following the application procedures in § Section 17.54.020.

G. *Documentation of approval.* The Director of ~~Community Planning and Development Services~~ shall note the terms of the approved exception directly on the amended plan and affix his or her signature and the date of approval.

(Ord. 5812, 2012)

CITY OF RAPID CITY

Mayor

ATTEST

Finance Officer

(seal)

First Reading: _____

Second Reading: _____

Published: _____

Effective: _____