

## ARTICLE 47

# Administrative Variances

### SECTION 3.47.000 Administrative Variance from Minimum Parcel Size

Variance from the minimum parcel size of a land use zone may be approved by the Director, subject to the provisions of §2.060.1 of this ordinance, and a finding that the criteria listed below have been met.

1. Preexisting Dwelling Provision

a. Rural Residential Lands

Administrative variances from regulations governing minimum parcel size may be authorized by the Director in areas zoned for Rural Residential use and allowing a division of land when:

- (1) The existing parcel contains two or more permanent habitable dwellings and each parcel for which a variance to size is requested will have at least one of the permanent habitable dwellings on it.
  - (a) "Habitable dwelling" means that it qualifies as a replacement dwelling;
- (2) The subject dwellings were placed or constructed prior to October 4, 2000;
- (3) The dwelling was constructed or placed in accordance with all applicable regulations in effect at that time;
- (4) The division will not result in the creation of a parcel smaller than one acre in size;
- (5) The substandard lot of record shall have sufficient area and otherwise be capable of being served by a domestic water supply and sewage disposal system approved by the appropriate sanitary authority; and
- (6) The division will not create any vacant parcels on which a new dwelling could be established.

b. Low Density Urban Residential Lands.

Administrative variances from regulations governing minimum parcel size in low density residential area may be authorized by the Director

in Urban Unincorporated areas zoned for suburban and rural residential use when property development standards for the zone cannot be met and the following criteria are satisfied:

- (1) The existing parcel contains more than one dwelling and the resulting parcels will each contain one or more of the existing dwellings;
- (2) The dwelling on each proposed parcel was placed or constructed on its present location prior to April 1, 1981;
- (3) The dwelling on each proposed parcel was constructed or placed in accordance with all applicable regulations in effect at that time;
- (4) The division will not result in the creation of a parcel smaller than 6,500 square feet for a single-family dwelling and 10,000 square feet for a duplex; and
- (5) The dwelling on each proposed parcel shall be served by a public sewer and water system.

## 2. Dividing Feature Provision

Administrative variances from regulations covering minimum parcel size may be authorized by the Director if:

- a. The use of the proposed parcel is precluded as a practical matter by virtue of one or more of the following controlling factors:

Physical separation of the proposed parcel from the rest of the overall ownership by a significant water course; by a topographic or similar natural feature; or, by a public highway, street or by a railroad, or similar controlling man-made feature, the location over which the owner had no control.

For the purpose of this section a controlling factor is a condition which effectively prevents the use of a portion of the land as a practical matter. Controlling factors do not include seasonal drainage channels or minor creek beds, or topographic features with slopes of under 60 percent.

- b. The proposed parcel shall have a sufficient area and otherwise be capable of being served by a domestic water supply and sewage disposal system approved by the appropriate sanitary authority. Written notification of such approval shall be filed with the Director as part of the application.

- c. The division is consistent with the criteria of §3.43.100 when the subject property is designated Agriculture or Farm/Forest Transitional on the Douglas County Comprehensive Plan.
- d. The Director shall determine whether or not the controlling factor described above warrants approval of the application.

3. Homestead Provision

An administrative variance from regulations concerning minimum parcel size may be authorized by the Director if:

- a. The existing parcel has been in the same ownership for at least seven years prior to the date of the proposed partition;
- b. The division will not result in the creation of a new parcel smaller than one acre in size or larger than five acres in size;
- c. The division is consistent with the criteria of §3.43.100 when the subject property is designated Agriculture or Farm/Forest Transitional on the Douglas County Comprehensive Plan; and
- d. The remainder of the parcel shall not be further divided under the provisions of this section for a period of seven years.