

VARIANCES & APPEALS

Variance Summary

Variations are authorizations to depart from the strict application of the standards of this LUDC. Variations may include relief from dimensional requirements for structures and parking lots, floodplain standards, signage standards, and as they apply to certain specific uses, including marijuana and the keeping of chickens. The person applying for the variance must prove to City staff and the appropriate review Board that the proposed variance meets the required criteria.

[6-3-5-2 Variations](#)

Variations may be granted by the Board of Adjustment (BOA) only if the standards of this Section are met. An Applicant may seek a variance when it is apparent that the requested relief is necessary for processing the application, which may be before an application for another type of approval is filed.

[Sec. 6-3-5-1 Floodplain Variations](#)

Floodplain variations are used to deviate from the strict application of the floodplain management regulations, set out in Division 4-4-6, *Floodplain Management and Flood Damage Prevention*. They are issued by the Board of Adjustment (BOA) pursuant to the standards of this Section. See [Section 6-3-5-1](#) for more details on when a floodplain variance may be granted.

[Sec. 6-3-5-3 Sign Variations](#)

Variations to Article 3-6, Signs, may be granted by the Design Review Board (DRB) if the standards of this Section are met. An Applicant may seek a variance when it is apparent that the requested relief is necessary for processing the application. The DRB may grant a variance only when it is demonstrated that the standards in [Section 6-3-5-3](#) are met.

Administrative Appeals Summary

The purpose of administrative appeals is to provide an opportunity for aggrieved applicants to seek timely and inexpensive appellate review of a decision of the Administrator; City Engineer; Floodplain Administrator; Historic Preservation Officer; Chicken Permitting Officer; City Arborist; Planning Commission; Historic Preservation Board; and Design Review Board. Decisions of the Board of Adjustment are not subject to administrative appeal. [Table 6-3-17-1](#) summarizes which entity is responsible for hearing which types of appeals.

Decisions reviewed on administrative appeal are not subject to further administrative appeal (e.g., if an appeal is taken to the Design Review Board regarding a decision of the Administrator to deny an application for EN Alternative Compliance, then the decision of the DRB with respect to that appeal is not reviewable by the City Council on a second administrative appeal).

Appeal applications shall be filed within seven (7) calendar days of the date of the decision being appealed and must include contact information for the applicant, a statement describing the appeal and the date of the decision being appealed, and a specific statement on how the decision being appealed violates the City's LUDC.

The appellate body with jurisdiction shall hold a hearing on the appeal and the appellate body may affirm, reverse, modify, or amend any underlying decision to achieve conformity with the requirements of the LUDC.

Applicable Sections of Code

[Section 6-3-5-2 Variances](#)

[Section 6-3-5-3 Sign Variances](#)

[Section 6-3-5-1 Floodplain Variances](#)

[Table 6-3-3-11](#) requires that the public have ten (10) days in which to provide written or verbal comment from the date of the public notice.

[Division 6-3-17 Administrative Appeals](#)

Note: A variance request or appeal must meet all applicable LUDC requirements. The LUDC sections listed above apply to all proposed conditional uses, but other requirements may apply.

Fee & Required Materials

The application fee for a Variance or Appeal is \$550. The fee for a minor Variance, as determined by the Administrator is \$250.

The following materials are required as part of a complete application for a Variance:

1. A completed [Land Use Application](#).
2. Fee.
3. A list of addresses for all property owners within a 150-foot radius of the subject property.
4. A written narrative explaining the basis for the variance request/appeal and how it meets the applicable variance/appeal standards.
5. A site plan, if applicable. Site plans should be scaled and show correct dimensions.
6. Any additional materials, which in the opinion of the Administrator, are necessary to adequately review the application as determined by the Staff within five (5) working days following the application filing date.

Procedural Summary

The site will be posted no more than 25 days before the hearing, but not less than 15 days prior to the public hearing, and will remain posted until the hearing date. Public notice will be mailed to all adjacent property owners within 150-feet no more than 25 days before the hearing, and not less than 15 days prior to the public hearing

For variances, the BOA shall make its decision within 35 days of the initial hearing at which the application is considered, unless the Applicant agrees in writing to an extension. The decision of the BOA shall be a final action.

For appeals, the appellate body with jurisdiction shall hold a hearing on the appeal. Following the hearing, the decision regarding the appeal will be summarized in writing by the Administrator, who shall include the material findings of fact and conclusions of law which supported the decision. Such written decisions shall then be executed by the City Manager and the City Manager's signature gives effect to the decision.

Criteria for Approval & Additional Information

Staff reviews all variance requests to determine if the request meets the applicable approval criteria. No variances can be approved if they do not meet the applicable criteria.

Criteria for sign variances are found in [Section 6-3-5-3 Sign Variances](#).

Criteria for Floodplain Variances are found in [Section 6-3-5-1 Floodplain Variances](#).

Criteria for all other variances are found in [Section 6-3-5-2 Variances](#).

The standard of review for appeals is found in [Section 6-3-17-4 Scope and Standard of Review](#).

Contact Information

Questions and other inquiries can be directed to the City of Durango Community Development Department—Planning Division at (970) 375-4850 or by visiting River City Hall at 1235 Camino del Rio (Durango, CO) during normal business hours.