

Huerfano County
 Land Use Department
 400 Main Street, Suite B
 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 PLANNING COMMISSION AND
 BOARD OF ADJUSTMENT
 SECTION 9.00**



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9.01 THE COUNTY PLANNING COMMISSION

9.01.01 Creation and Organization

1. The Board of County Commissioners shall establish and maintain a county planning commission to which they shall appoint members in accordance with Section 30-28-103, Colorado Revised Statutes. Each such member of the Planning Commission shall be a resident of the County. In addition, the Board of County Commissioners may appoint associate members of the Planning Commission, each of whom shall be a resident of the County. In the event any regular member is temporarily unable to act owing to absence from the County, illness, interest in any matter before the Planning Commission or any other cause, his place may be taken during such temporary disability by an associate member designated for that purpose.

2. The terms of the appointed members of the Planning Commission shall be as provided for by Section 30-28-103, Colorado Revised Statutes and the members of the Commission shall receive such compensation as may be fixed by the Board of County Commissioners. The Board of County Commissioners shall provide for reimbursement of the members of the Planning Commission for actual expenses incurred, for the filling of vacancies in the membership of the Planning Commission and for the removal of members for nonperformance of duty or for misconduct. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.

3. The Planning Commission shall elect a chairman from among its members, whose term shall be for one year, and the Planning Commission may create and fill such other offices as it may determine and adopt such rules and regulations governing its procedure as it considers necessary or advisable. It shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times. The powers and duties of the Planning Commission shall be as provided for by State statute.

9.01.02 Planning Commission Meetings

The Planning Commission shall meet periodically to review and process applications and other requests and matters submitted to it. All meetings shall be open to the public and an agenda of items to be considered by the Planning Commission shall be made available to the public prior to the meeting. The Planning Commission may call special meetings to review, discuss, recommend or take action on matters that may periodically come to its attention.

A majority vote of the voting members of the Planning Commission is required for a recommendation, decision or determination. In the event of a dissenting vote by one or more members of the Planning Commission a roll call vote shall be recorded in the minutes of the meeting. Minutes of Planning Commission meetings shall be a matter of public record within a reasonable time after any official meeting of the Planning Commission. Any person(s) wishing to have a transcript of the proceedings may have a court recorder present at their own expense.

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9.01.03 Planning Commission Procedures

1. At public hearings conducted by the Planning Commission, any party at interest shall be allowed to present evidence and to cross-examine witnesses. A party at interest for this purpose shall be defined to include an applicant or duly appointed representative(s) of an applicant, owners of and tenants on property adjacent to the site(s) under discussion, members of the Planning Commission and the Board of County Commissioners and the Board's officers, agents or representatives.
2. Public hearings before the Planning Commission shall be conducted by the Chairman of the Planning Commission, the Chairman of the Board of County Commissioners, or another competent person selected by the Chairman of the Planning Commission to act as Hearing Officer. At the discretion of the Hearing Officer, evidence and other testimony may be accepted from persons present at the hearing who are not parties at interest, as defined above.
3. The Hearing Officer may, at his discretion, limit the presentation of evidence and cross-examination in order to prevent repetitive, redundant or superfluous evidence or cross-examination.
4. All public hearings before the Planning Commission, if tabled, postponed or continued, must be so designated and announced to continue at a date and time certain.
5. Whenever the Planning Commission decides to table review, discussion or action on an agenda item before the Commission, it may do so without further notice to the affected parties. The matter tabled shall be rescheduled within thirty (30) days from the date of the meeting at which it was heard unless the Planning Commission receives written consent from the applicant to extend the time period. If an applicant or duly appointed representative is not present, the Planning Commission may decide on its own initiative to continue a proposal or other agenda item.
6. Applicants appearing at a public hearing before the Planning Commission shall be notified in writing within ten (10) working days after the Planning Commission takes action or makes a recommendation of the action taken or recommendation made and any comments or special conditions recommended by of the Planning Commission.

9.01.04 Actions of the Planning Commission

After reviewing proposals and conducting other business requiring decisions, the Planning Commission shall make one of the following categories of recommendations or other actions:

1. **Approval** without any special conditions.
2. **Conditional** Approval with a description of the special conditions.
3. **Denial**, indicating for the record the reason(s) for such action.

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4. **Continuation** until a future date to gather more information or obtain clarification or for any other relevant cause.

9.02 THE BOARD OF ADJUSTMENT

9.02.01 Creation and Organization

1. A Board of Adjustment is hereby created with the intent to provide a levy for special exceptions to the provisions of these regulations. The term Board of Adjustment and the word Board, when used in this Section 9.02 shall mean the Board of Adjustment established herein.

2. The Board of County Commissioners shall appoint the members of the Board of Adjustment, which shall consist of five (5) voting members, not more than two (2) of whom may at any time be also members of the Planning Commission. All members of the Board shall be residents of the County. Until otherwise provided, the members of the Board of Adjustment shall serve without compensation except for reimbursement of actual expenses, and each member shall serve for five (5) years.

3. Any member of the Board of Adjustment may be removed for cause by the Board of County Commissioners upon written charges and after a public hearing. Vacancies shall be filled for an unexpired term in the same manner as in the case of original appointments. The Board of County Commissioners may appoint associate members to the Board of Adjustment. In the event that any regular voting member is temporarily unable to act owing to absence from the County, illness, interest in a case or other cause, his place may be taken during such temporary disability by an associate member designated for that purpose.

4. The Board of Adjustment shall elect from its members a chairman, whose term of office shall be one year, and other such officers as the Board sees fit to create. The Board shall adopt such rules and regulations governing its proceedings as it considers necessary or advisable and the Board shall meet as often as necessary to hear and act upon applications and other appropriate matters within its duties and powers.

5. All meetings of the Board of Adjustment shall be open to the public and 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, and it shall keep records 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. Any person(s) wishing to have a transcript of the proceedings of the Board may have a court reporter present at their own expense.

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9.02.02 Powers and Duties of the Board

The Board of Adjustment shall have the following powers and duties, which shall be exercised in accordance with the laws of the State of Colorado and the provisions of these regulations and in harmony with the public interest and the most appropriate uses of the land:

1. To hear and decide appeals when it is alleged by the appellant(s) that there is or has been an error in any interpretation, order, requirement, decision, denial or refusal made by an administrative officer or agency based on or made in the enforcement of the zoning district regulations contained in these regulations.
2. To provide applicants with an opportunity to apply for variances from zoning setback requirements and other circumstances for which a variance may be deemed appropriate.
3. To interpret the zoning district boundaries and pass upon disputed questions of lot lines and similar questions that may arise periodically in the administration of these zoning regulations.
4. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of enactment of these regulations, or by reason of exceptional topographic conditions or other extraordinary or exceptional physical characteristics or conditions of such piece of property not created by the applicant subsequent to the adoption of these regulations or previously adopted County zoning regulations, the strict application of any zoning regulation or provision therein would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, then the Board of Adjustment shall have the authority, upon an appeal relating to said property, to authorize a variance from such strict and literal application so as to relieve such difficulties or hardship. Such relief shall be granted, however, without substantial detriment to the public good and without altering or impairing the intent and purpose of the zoning regulations and other provisions contained within State or County regulations. The Board shall not, however, have the power to grant variances from the uses prohibited or allowed conditionally by special review for the zoning district involved.
5. To review and decide upon such other matters relating to this zoning regulation as may be specifically referred to the Board by other provisions of County regulations or by the Board of County Commissioners, the Planning Commission or the County Zoning Enforcement Officer.
6. Meetings of the Board of Adjustment shall be held at the call of the chairman and at other such times as the Board of Adjustment in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses by application to the district court. The court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings.

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9.02.03 Submittal Requirements

1. Applicants appearing before the Board of Adjustment shall submit the following submittal materials and all other materials as the County Planner or the Board of Adjustment may deem necessary. These submittal requirements are in addition to those specified in Section 9.02.04, Application and Appeals Procedures, of these regulations.

01. A full and accurate legal description of the land involved in the appeal action.
02. A plot plan showing the existing and proposed location of all structures, uses, zoning district boundaries and setbacks on the land involved in the appeal action.
03. Proof of ownership of the property or written evidence of authority to act on behalf of the lawfully demonstrated owner of the property.
04. Proof of publication of the advertised legal notice of public hearing before the Board of Adjustment.
05. Proof of payment of the cost of publication of the advertised public hearing notice.
06. Proof of timely mailing by certified or registered mail, return receipt requested, at least ten (10) days prior to the Board of Adjustment public hearing date, to owners of record of all property adjacent to the property in question. See Section 9.02.04, Appeals Procedures, below.

2. Items in Section 9.02.03 numbers .04, .05, and .06, above, need to be submitted not at the time of application but by or before the conduct of the public hearing.

9.02.04 Appeal and Application Procedures

1. Appeals to the Board of Adjustment may be made by any person(s) aggrieved by an inability to obtain a building permit or by the decision or interpretation of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of these zoning regulations. Appeals to the Board shall be made within thirty (30) days of the order, requirement, decision, interpretation or refusal alleged to have occurred or to be in error. Applications to the Board of Adjustment may also be made by persons, organizations or corporations to provide applicants with an opportunity to apply for variances from zoning setback requirements and other circumstances for which a variance may be obtained.

2. The Board shall hold a public hearing on all applications and appeals. Prior to such public hearing scheduled before the Board of Adjustment a notice of public hearing shall be published in a legal publication in Huerfano County at least ten (10) days before the scheduled date of the public hearing. Publication of such notice shall follow a form prescribed by the County and publication of the notice, which shall specify the time and place of the hearing and location of the land subject to the hearing. Such publication of the notice is the responsibility of the applicant. Applicants shall be billed directly by the newspaper and shall submit proof of publication of the notice and proof of payment of

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publication costs with the Board of Adjustment as a condition for action by the Board of Adjustment.

3. The applicant shall also mail a written notice of such hearing by certified or registered mail, return receipt requested, at least ten (10) days prior to the Board of Adjustment public hearing date to owners of record of all property adjacent to the property in question. This mailed notice shall also be sent to all adjacent mineral rights owners and lessees and easement holders, as shown on the records of the Huerfano County Assessor, and the notice shall include a vicinity map, a short narrative describing the relief sought and an announcement of the date, time and location of the scheduled hearing. Acceptable proof of mailing such notice shall be submitted to the Board of Adjustment as a condition for action by the Board of Adjustment.

4. All applications and appeals to the Board of Adjustment shall be in writing and on such forms as shall be prescribed by the Board and the appropriate filing fee shall accompany the application. Every application or appeal shall state what provision(s) of the zoning regulation is/are involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the applicant. The chairman of the Board, or his appointed designee, shall call a meeting of the Board scheduled to take place within fifteen (15) days of the submission of the required submittal materials. The Board of Adjustment may, at its discretion and by majority vote, transmit a copy of the application or appeal to the Planning Commission or other appropriate public organizations or private parties for review and comment.

5. Upon reaching a decision in the manner described above, the Board of Adjustment or its authorized agent shall notify applicant(s) in writing ten (10) working days after the Board of Adjustment takes action on an appeal brought before it.

9.02.05 Appeals From Actions by the Board of Adjustment

Any further appeal from decisions made by the Board of Adjustment shall be made to the courts, as provided by law.