

SECTION 26A APPEAL STANDARDS AND PROCEDURES *(Amended 4/13/05)*

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## 2601A Intent

An appeal to the Board of Adjustment may be taken by any person aggrieved by the decision of an administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of this Resolution. [§30-28-118, C.R.S.]

## 2602A Appeals Limitations

An appeal must be made in writing and submitted to the Planning Office within 30 days of an administrative decision.

## 2603A Appeal - Approval Criteria

- 2603A.01 An appeal shall be granted only upon the finding that the administrative official has erred in the interpretation or application of the Zoning Resolution or Planned Development plan, or similar regulatory document. [§30-28-118(2)(a)C.R.S.]
- 2603A.02 An appeal may be granted provided that no substantial detriment to the public good is created and that the intent and purpose of this Resolution are not impaired. [§30-28-118(2)(c)C.R.S.]
- 2603A.03 The concurring vote of three members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official. [§30-28-118(3)C.R.S.]  
(Amended 1/10/17)

## 2604A Procedure for an Appeal

- 2604A.01 The applicant shall discuss the appeal informally with Planning staff to discuss the procedures and submittal requirements.
- 2604A.02 The applicant shall submit the following to the Planning Office:
  - 2604A.02.1 A completed application form
  - 2604A.02.2 Application fee (*fee schedule available from the Planning Office*)
  - 2604A.02.3 An explanation in narrative form explaining the appeal and how the administrative official has erred in the interpretation
- 2604A.03 The submittal shall be reviewed for completeness and the applicant notified of any inadequacies. An incomplete submittal shall not be processed.
- 2604A.04 Once the submittal is determined to be complete, Planning staff shall submit the application to the appropriate referral agencies and schedule the appeal before the Board of Adjustment and notify the applicant of the date and time of the public hearing.

2604A.05 The applicant is responsible for posting notice on the property and notifying the abutting landowners in accordance with the public notice requirements in 2605A herein.

2604A.06 The Board of Adjustment shall evaluate the application, referral agency comments, staff report and public testimony, and shall approve, conditionally approve, table for further study, or deny the appeal based on the evidence presented, and compliance with the applicable criteria.

## 2605A Public Notice Requirements

In calculating the time period for public notification, the day of posting or mailing shall be counted toward the total number of days required. The day of the hearing shall not be counted toward this total.

The degree of accuracy required for the information contained in these public notices shall be that of substantial compliance with the provisions of this section. Substantial compliance for these public notices shall be determined by the Board of Adjustments.  
(Amended 3/28/01)

### 2605A.01 WRITTEN NOTICE

At least 14 days prior to the Board of Adjustment hearing, the applicant shall mail a written notice by first-class mail to the address of each abutting landowner as such addresses are shown in the records of the Douglas County Assessor's Office and shall submit a certificate of mailing to the Douglas County Planning Office 7 days prior to the hearing. The notice shall indicate:

- the date, time and location of the hearing;
- an explanation of the appeal;
- the location of the land that is the subject of the request (*distance and direction from nearest major intersection*),
- the file name and number; and
- that questions should be directed to the Douglas County Planning Office, 303-660-7460.

The person completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

#### CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, and addressed as follows:

(list of addresses)

\_\_\_\_\_  
(signature of person completing the mailing)

In the event the applicant fails to mail a notice to an abutting landowner or otherwise fails to comply with the written notice required in this section, the landowner who did not receive such complying notice may waive such notice by submitting a written waiver to the Douglas County Planning Office prior to the hearing.

#### 2605A.02 POSTED NOTICE

At least 14 days prior to the Board of Adjustment hearing, the applicant shall post a notice on the land under consideration. The sign posting shall consist of at least 1 sign facing each abutting public or private street open for travel, within 10 feet of the lot line abutting such street, placed on posts at least 4 feet above ground level. In the event the staff planner determines a sign cannot be placed abutting such street and be visible from such street or that there is no abutting public or private street open for travel, the staff planner may require an alternate location for a sign. Each sign shall measure not less than 3' by 4'. Letter size shall be minimum of 3 inches high, and a minimum of six inches high for the sentence that reads, "For more information call Douglas County Planning at 303-660-7460.". The notice shall read:

**NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF  
ADJUSTMENT**

This land shall be considered for (an appeal) pursuant to the Douglas County Zoning Resolution to allow (specify the request. The public hearing is (date), in the Commissioners' Hearing Room, 100 Third Street, Castle Rock, CO, at (time). For more information call Douglas County Planning, 303-660-7460.

File No./Name: \_\_\_\_\_

An affidavit of sign posting shall be submitted for the file in the Planning Office at least 7 days prior to the hearing. The sign(s) shall be photographed by the applicant and attached to the affidavit as follows:

(attach photo here)  
(Sign lettering must be legible in photo)

I, (print name of applicant/representative/person posting sign), attest that the above sign was posted on (date) abutting (name of street).

(signature) File No./Name \_\_\_\_\_

STATE OF COLORADO )  
) ss.  
COUNTY OF \_\_\_\_\_)

Acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_ by \_\_\_\_\_ as \_\_\_\_\_.

My commission expires: \_\_\_\_\_

Witness my hand and official seal

\_\_\_\_\_  
Notary Public

The sign shall be removed by the applicant within 2 weeks following the Board of Adjustment decision, or withdrawal of the application.

2605A.03 Additional public notice may be required by the Director.

2606A Post Denial Application

If denied by the Board of Adjustment, a resubmittal of the same or substantially same appeal application shall not be accepted. However, if there has been a change in the applicable regulations, the Board of Adjustment will reconsider the appeal. A new application and processing fee shall be required.

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