

Chapter 14.06

REVIEW PROCEDURES

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Part 1
Compliance, General Procedures and Preapplication Conference

14.06.010 Compliance. Any land use activities as defined by this Title 14 of the Town of De Beque Municipal Code and located within the Town of De Beque, shall be subject to the provisions of these Regulations and any other applicable regulations of the Town of De Beque. Any landowner desiring to establish a land use requiring approval of the Town of De Beque must obtain such approval prior to the establishment of the land use. All property owners are required to comply with all provisions of these Regulations.

14.06.020 Application. Except as otherwise specified in other sections of these Regulations, any property owner may apply for approval of a land use pursuant to the provisions of these Regulations. The Town of De Beque Planning Commission or Board of Trustees may also initiate rezoning or text amendments.

14.06.030 General Procedures.

A. Planning Commission and Board of Trustee Reviews: Most land use applications are reviewed by both the Planning Commission and Board of Trustees. The Planning Commission reviews an application and makes a recommendation to the Board of Trustees.

Applications are reviewed by the Board of Trustees at a public hearing with adequate notice provided to property owners in the neighborhood. The applicant is responsible for providing the public notice per the provisions of Section 14.01.060. The Planning Commission will review applications at a meeting open to the public.

It is recommended that all applicants schedule a preapplication meeting to discuss the land use proposal and to learn more about the requirements of the Town of De Beque. The preapplication process is described below.

B. Appeals and Variance Requests: Appeals of administrative decisions pertaining to the Land Use Regulations are reviewed by the Planning Commission acting as a board of adjustment. In addition to such appeals, the Planning Commission reviews applications for variances to the requirements of the zoning regulations and the provisions of the special development regulations (with the exception of the flood hazard regulations). The Planning Commission's review of zoning variances are conducted at public hearings with proper notice provided by the applicant or appellant pursuant to Section 14.01.060.

14.06.040 Pre-application Conference. The Preapplication Conference is an opportunity for an applicant to meet with the Planning Commission to learn more about application requirements, review standards and review procedures. The Preapplication Conference is not required. The Preapplication Conference does not substitute for any of the review processes required by these Regulations. Topics that may be discussed at a Preapplication Conference include the

nature of the application, time periods of review, schedules of review meetings, and other details of the review process. The Planning Commission should also explain the intent, purpose, and relevance of any review criteria, policies, and the De Beque Master Plan which will be referred to as the Commission considers a land use application.

Part 2 Review Procedures

14.06.050 Administrative Procedures, Purpose and Applicability. The purpose of the review process is to give the Planning Commission and the Board of Trustees an opportunity to review all relevant facts of an application in the context of the Town's review standards and policies of the Town. An application may be approved, approved with conditions, or denied. Conditions may be imposed on length of permit approval or other aspects of the activity designed to ensure compatibility with the standards of this Title 14 and any policies or other adopted standards of the Town.

The Sketch Plan is the first review step of a major subdivision application. After a subdivision has received Sketch Plan approval, the property owner may apply for Final Plan approval.

14.06.060 Submittal of Applications and Applicability. Applications must be submitted to the Town Clerk at least thirty-five (35) days prior to a regularly scheduled meeting of the Town Planning Commission. The application shall include all of the items identified in Chapter 14.06 of these Regulations for the type of approval sought. Incomplete applications will not be reviewed.

Applications shall be required for land use actions as further prescribed in these Regulations for the following:

- A. Text amendments
- B. Zoning variances
- C. Special review uses
- D. Rezoning
- E. Subdivision sketch plans
- F. Subdivision final plans
- G. Boundary/lot line adjustments
- H. Lot Splits.

(Amended Ord. 419, § 5 (2011))

14.06.070 Determination of Completeness. The De Beque Town Clerk will review the application for completeness within ten (10) working days of submittal. If the application is determined to be initially complete, it will be accepted for review of technical adequacy and completeness by the Town Engineer, Town Attorney or other consultants to the Town or the Town staff. If the application is incomplete, the applicant will be notified of the information needed to complete the application and the application will be withdrawn from the review process until the required information is submitted. Applications must be complete at least forty-two (42) days prior to a regularly scheduled meeting of the Town of De Beque Planning Commission.

14.06.080 Review and Referral of an Application. The application will be reviewed by the Town Clerk and the appropriate Town staff, consultants, the Town Planning Commission and the Board of Trustees. The Town may utilize the services of qualified professionals, not on the Town staff, as necessary to review an application. The costs of such professional review shall be paid by the applicant per the provisions of Section 14.01.080 of these Regulations.

A. Referral of the Application: Within ten (10) working days of receipt of an apparently complete application, the Town Clerk shall refer the application to appropriate review agencies for comments on the application. The Town Clerk will maintain a list of review agencies and their current addresses.

B. Review Agency Comments: The review agencies shall have twenty-eight (28) days from the date of their receipt of the application to return their comments and recommendations to the Town Clerk.

C. Inadequate, Incomplete or Incorrect Applications: The referral agencies, including but not limited to, the Town Attorney, the Town Engineer and other professionals retained by the Town as well as the Town staff may determine that an application contains erroneous information or is technically deficient, incomplete or does not comply with Town standards and regulations as well as any other standards and regulations of the reviewing agencies and all applicable federal, State or local regulations and laws. Incomplete, inadequate or incorrect applications will be withdrawn from the review process and will not be rescheduled for review until the inadequate, incomplete or incorrect application is corrected or required additional information is submitted. Revised applications must be completed or corrected and approved by all reviewing agencies not less than fourteen (14) days prior to a regularly scheduled meeting of the Town of De Beque Planning Commission.

14.06.090 Planning Commission Review. The Town Planning Commission will review an application at its next regularly scheduled meeting date at least thirty-five (35) days after the submittal of a complete application. The Planning Commission will conduct a public meeting to review the application.

14.06.100 Review Criteria and Planning Commission Recommendation.

A. Review Criteria: The Planning Commission shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the Town Clerk, the Town's consultants and comments from the public. At a minimum, the Planning Commission shall also consider the following criteria:

1. Conformance of the proposal with the Town of De Beque Municipal Code;
2. The compatibility of the proposal with the character of the surrounding area including, but not limited to the architectural character of the neighborhood;
3. The desirability of the proposed use in the specific area of the Town;
4. The potential for adverse environmental effects that might result from the proposed use;
5. Conformance of any plan with appropriate engineering and design standards;
and
6. Additional criteria set forth for rezoning applications in Section 14.03.120.

B. Planning Commission Recommendation: The Planning Commission shall complete its review and make its recommendation to the Board of Trustees at the public meeting specified in Section 14.06.090. The Planning Commission may recommend approval, conditional approval, or denial of the application. If the application is for a subdivision to be developed in phases, the Planning Commission shall also recommend a phasing plan.

The Planning Commission may, in its sole discretion, continue the review of the application to another regularly scheduled Planning Commission meeting for the purpose of receiving additional information or public commentary prior to making a decision. In no event shall the review be continued for more than ninety (90) days beyond the date of the initial Planning Commission meeting without the consent of the applicant. The applicant or any other interested party may request a continuation of the public meeting for good cause, shown to the satisfaction of the Commission.

The Planning Commission shall only recommend approval of those applications which the Commission finds to be developed in accordance with the intent, standards and criteria specified in these Regulations.

The Planning Commission recommendation shall be sent to Board of Trustees indicating any conditions of approval or reasons for denial of an application. A copy of the Planning Commission recommendation shall be maintained in the records of the Town and a copy shall be provided to the

applicant.

C. Record of Planning Commission Proceedings: The Planning Commission shall maintain a record of its proceedings in the form of minutes or a written resolution. The record shall include comments of the reviewing agencies and other interested parties as well as the recommendations of the Planning Commission. A written copy of the minutes or resolution or a tape recording of the meeting will be made available to any interested party within fifteen (15) days of the conclusion of the public meeting.

D. If, at the time the Town Planning Commission is required to hear and consider any matter pursuant to Title 14, including, but not limited to, PUD and subdivision review, and a quorum of the Commission cannot be achieved due to vacant seats on the Commission or otherwise, the Town Board shall have the authority to waive the Planning Commission review requirement at the Board's next regularly-scheduled meeting and set the matter for public hearing before the Board of Trustees. In the event the Board of Trustees waives Planning Commission review as provided in this subsection, the Town Planner shall provide a summary of the application and recommendation regarding the same at the public hearing before the Board.

(Ord. 483 § 2, Series 2016)

14.06.110 Public Notice of Board of Trustees Review. The Board of Trustees will review the application at a regularly scheduled meeting date within sixty (60) days after the Planning Commission has completed its review and made its recommendation to the Board of Trustees. The Board of Trustees will conduct a public hearing to review the application. The applicant shall be responsible for providing notice of the public hearing per the requirements of Section 14.01.060 of these Regulations.

14.06.120 Board of Trustees Review and Decision.

A. General: Within sixty (60) days of receipt of the Planning Commission recommendation the Board of Trustees shall conduct a public hearing to consider the application. The Board of Trustees will consider all the evidence presented by the applicant and other interested parties, the recommendation of the De Beque Planning Commission, comments of review agencies, recommendations of the Town Clerk and the Town's consultants, and comments from the public. The Board may, in its sole discretion, continue the public hearing to another regularly scheduled Board meeting date for the purpose of receiving additional information or public input before making a decision. In no event shall the public hearing be continued for more than ninety (90) days beyond the date of the initial public hearing without the applicant's consent. The applicant or any other interested party may request a continuation of the public hearing for good cause shown, satisfactory to the Board. The Board of Trustees shall by a majority vote of the members present approve, approve with conditions or disapprove the application.

B. Review Criteria: The Board of Trustees shall consider all the evidence presented by

the applicant and other interested parties, comments of review agencies, recommendations of the Town Clerk and the Town's consultants, and comments from the public. At a minimum, the Board of Trustees shall also consider the following criteria:

1. Conformance of the proposal with the Town of De Beque Municipal Code;
2. The compatibility of the proposal with the character of the surrounding area including, but not limited to the architectural character of the neighborhood;
3. The desirability of the proposed use in the specific area of the Town;
4. The potential for adverse environmental effects that might result from the proposed use;
5. Conformance of any plan with appropriate engineering and design standards;
6. Additional criteria set forth for rezoning applications in Section 14.03.120.

C. Protests to Rezoning and Text Amendment Applications: In the case of protest against any change to the zoning regulations or the Town Zone District Map, such changes shall not become effective except by a concurring vote of two-thirds of the members of the Board of Trustees provided, however, that such protest against the changes are filed with the Town Clerk at least twenty-four (24) hours prior to the Board's vote on the change and provided further that such protest is signed by the owners of at least twenty percent (20%) of the land within one hundred feet (100') of the land proposed for rezoning or subject to the text amendment.

14.06.130 Record of Decision. The Board of Trustees shall maintain a record of its proceedings in the form of minutes, resolutions and ordinances as appropriate. The Town Clerk will issue a Record of Decision indicating the action of the Board of Trustees and also indicating any conditions of approval of an application. A copy of the Record of Decision will be maintained in the Town records and a copy provided to the applicant. Changes to the Zone District Map will be indicated on the Map. In the case of a special review use, the Record of Decision shall be recorded in the real estate records of the Mesa County Clerk and Recorder.

14.06.140 Duration of Approval. If the approval of an application is subject to vested property rights pursuant to Section 14.01.070 of this Title and Article 68 of Title 24, C.R.S., the approval shall be valid for the period set forth in subsection 14.01.070(G) of this Title 14 and Section 24-68-104, C.R.S. The approval of applications not subject to vested property rights shall be valid for one (1) year from the date of the Board of Trustee approval. If, within that one (1) year time period, no required subsequent application has been filed or an authorized use established, approval shall expire. For good cause, the Board may grant a single extension of the approval time period for a time period not to exceed one (1) additional year. The one (1) year limit on the duration of approval does not, however, apply to text amendments to the Land Use Regulations or rezoning

actions. Text amendments and rezoning actions shall remain in full force and effect until changed by the Board of Trustees in the manner prescribed by law.

14.06.150 Recording of Ordinances or Final Plats. As soon as practical, and in any event, within fourteen (14) days of approval of the Final Plan application, the Board will cause the Ordinance of approval of the final plat of the subdivision to be recorded in the office of the Mesa County Clerk and Recorder and in such other offices as may be required by law. In addition to the Ordinance and/or final plat, supporting documents such as the Subdivision Improvements Agreement and condominium documents may also be recorded if the Board determines that such recording is necessary and appropriate.

Part 3 Appeals and Variances

14.06.160 Planning Commission Review. The Town of De Beque Planning Commission shall serve as a board of adjustment to review appeals of administrative decisions concerning the zoning requirements and to review applications for variances from the strict application of the zone district requirements of these Regulations. In the event three or more Planning Commission seats are vacant at the time an appeal or variance application is filed with the Town Clerk, the Board of Trustees shall serve as the Planning Commission for the purposes of this Part 3 of Chapter 6, Title 14.

(Ord. 483 § 2, 2016)

14.06.170 Powers and Duties. Upon appeal, the Planning Commission shall have the following powers:

A. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of this Title 14 of the Town of De Beque Municipal Code;

B. To hear and decide appeals wherein there is a question regarding the interpretation of the Zone District Map or a question regarding the interpretation of the zoning provisions of this Title 14;

C. To hear and decide appeals for special exceptions to the zoning provisions of this Title 14, such exceptions to be known as variances.

14.06.180 Appeal Procedures and Variance Applications. Appeals to the Planning Commission may be taken by any person aggrieved by his inability to obtain a building permit, or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of this Title. Appeals may be taken by an officer,

department, board or bureau of the Town affected by the grant or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration of this Title.

A. Appeals: Appeals to the Planning Commission must be made in writing and filed with the Town Clerk within seven (7) days following the action or decision from which the appeal is taken. In the event the seventh day falls on a Saturday, Sunday or holiday, the next regular business day of the Town shall be deemed the seventh day.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Planning Commission after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay, in the opinion of the officer, would cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Planning Commission or a court of record on application, on notice to the officer from whom the appeal is taken and due cause shown.

B. Variance Applications: Applications for variances must be submitted to the Town Clerk at least twenty-one (21) days prior to a regularly scheduled meeting of the Planning Commission. The applications shall include all of those items identified in Section 14.06.060 (submittal requirements) of these Regulations. Incomplete applications will not be accepted for review.

The Town Clerk will review the variance application for completeness within five (5) working days of submittal. If the variance application is determined to be complete, it will be accepted for review. If the application is incomplete, the applicant will be notified in writing of the information needed to complete the application and the application will be withdrawn from the review process until the required information is submitted. Applications must be complete at least twenty-one (21) days prior to a regularly scheduled meeting of the Planning Commission.

14.06.190 Public Notice of the Planning Commission Hearing. The Planning Commission will meet at least once per month, as designated by the Planning Commission, for the purpose of hearing appeals and requests for variances. The Planning Commission will hear appeals and requests for variances at a public hearing. The applicant or appellant is responsible for providing notice of the public hearing pursuant to the requirements of Section 14.01.060 of these Regulations.

14.06.200 Review Criteria.

A. Appeal of a Decision of an Administrative Officer: The Planning Commission's scope of review regarding an appeal of an administrative decision shall be limited to determining whether the decision by the administrative officer was in accordance with the intent and

requirements of this Title. Accordingly, the Planning Commission will affirm or reverse the decision of the administrative officer.

B. Application for a Variance: A variance is not a property right. The Planning Commission may grant a variance to an applicant only if the applicant establishes that the applicant will suffer undue hardship from strict application of these Regulations because of the characteristics of the site. The applicant must also demonstrate that the granting of the variance will not conflict with the intent of these Regulations.

Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Title, or by reason of exceptional topographic condition or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this Title would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owners of such property, the Planning Commission may authorize, upon a request relating to the property, a variance from the strict application of these Regulations so as to relieve such difficulties or hardship provided, however, that:

1. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the De Beque Master Plan or this Title 14;
2. There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zone district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or appellant or owner of the property;
3. The granting of the variance will not be detrimental to the public health, safety or welfare;
4. The applicant and the owner of the property cannot reasonably use the property without a variance;
5. The variance will not be injurious to, or reduce the value of, the adjacent properties or improvements; and
6. The variance granted is the minimum necessary to alleviate such practical difficulties or undue hardship upon the owner of the property.

In granting a variance, the Planning Commission may impose conditions deemed necessary to protect affected property owners and to protect the intent of this Title.

14.06.210 Planning Commission Decision. The Planning Commission shall complete its review and make its decision at the public hearing specified in Section 14.06.190. The majority vote of the members of the Planning Commission shall be required for a decision. In any event, the concurring vote of three (3) members of the Planning Commission shall be the minimum necessary to reverse any order, requirement, decision, determination of any administrative officer or agency or to decide in favor of the applicant.

14.06.220 Record of Planning Commission Proceedings. The Planning Commission shall maintain a record of its proceedings in the form of minutes. The record shall include comments of the appellant and other interested parties as well as the recommendations of the Town Clerk. An audio tape recording of the proceeding shall also be made. A written copy of the minutes will be made available to any interested party within fifteen (15) days of the conclusion of the public hearing.

14.06.230 Record of Decision. The Town Clerk will issue a Record of Decision regarding the Planning Commission's decision on the appeal or application for a variance. The Record of Decision will also indicate any conditions of approval. A copy of the Record of Decision will be provided to the applicant or appellant and a copy maintained in the records of the Town.

14.06.240 Duration of a Planning Commission Decision. In the case of interpretations of these Regulations or the Zone District Map, the decision of the Planning Commission shall remain in effect until any affected provisions of this Title or the Zone District Map are amended or the decision is changed by a court of law.

Any approval of a variance or use granted by the Planning Commission must be established on the subject property within one (1) year from the date of the hearing when the variance or use was granted by the Planning Commission. The failure of the property owner to establish the use in accordance with the Record of Decision will result in the expiration of the approval by the Planning Commission.