

Chapter Two

ADMINISTRATION

2.1. GENERAL

2.1.1 Purpose

This Chapter sets forth the general authorities used in the administration of LDC including the types of review processes established to facilitate fair and effective decision-making and to encourage public participation.

2.1.2 Procedures Manual

The PCD Director shall establish processes, standards, and procedures to support the efficient review of development applications for conformance with this Code and State statute. The processes, standards, and procedures established by the PCD Director shall be published in a Procedures Manual, and may include detailed submittal requirements, application forms, review procedures including public notice requirements, review policies and guidelines to support the implementation and administration of the LDC. The public notice requirements the Procedures Manual, including the nature, extent, time period, and methods of delivery, shall, at a minimum, conform to the requirements of State Statute. The public notice requirements established by the PCD Director may exceed the minimum requirements of State Statute where determined necessary by the PCD Director to achieve the purposes of this Code.

The Procedures Manual and any amendments thereto shall become effective when approved by the PCD Director; however the Procedures Manual and any amendments thereto shall be submitted to the Planning Commission and BoCC for review and comment within 30 days of approval by the PCD Director. The Planning Commission and BoCC shall provide comments to the PCD Director within 30 days of receipt of the Procedures Manual or any amendment thereto. The PCD Director shall consider any comments provided by the Planning Commission and BoCC, and may amend the Procedures Manual based on the comments received from the Planning Commission and BoCC. The Planning Commission and BoCC may, but are not required to, endorse the Procedures Manual and any amendments thereto.

The Procedures Manual is a management and administration tool for the PCD. As a result, it is the duty of the PCD Director to develop and maintain the Procedures Manual in a manner that ensures the achievement of organizational and administrative efficiencies, timely processing of development applications, and effective and fair public involvement in the processing and review of development applications and administration of this Code.

A copy of the Procedures Manual shall be on file in the PCD. The Procedures Manual shall control the processing and review of all development applications.

2.1.3 Master Plan Advisory

Simply by stating in this Code a requirement or preference for Master Plan consistency, the Board of County Commissioners has not by such statement rendered the Master Plan a binding requirement or regulation for either zoning or subdivision matters. The Board of County Commissioners' intent as expressed in its various Master Plan elements and in Appendix A, § A.1.6(B) to this Code is that the Master Plan be advisory only, and that the Board of County Commissioners retains its considerable discretion in deciding how to apply the Master Plan in making land use decisions.

2.1.4 Resubmittal of Denied Application

No development application which has been denied by the final decision-making authority for such application may be resubmitted unless evidence is presented showing that there has been a substantial change in conditions or circumstances. A substantial change has occurred when the development application is substantially different in a material way from the one previously denied, or the conditions or circumstances surrounding the development application and material to the approval criteria for such application have substantially changed.

2.2. AUTHORITIES

2.2.1 BoCC (Board of County Commissioners)

The authority of the BoCC to conduct its activities is established by State Statute. The manner in which those activities are conducted is established by BoCC Resolution Number 05-106, as may be amended from time to time. In addition to any authorities identified in BoCC Resolution Number 05-106, the BoCC is empowered to do the following with respect to administration of this Code:

(A) Adopt Regulations

The BoCC may adopt and amend the LDC including, but not limited to, zoning and subdivision regulations and any associated maps.

(B) Approve Permits and Applications

The BoCC may approve, approve with conditions, or deny map amendments, code amendments, special use permits, variance of use applications, preliminary plans, final plats, development plans, Development Agreements, and all other actions as identified by this Code, the Procedures Manual, or as established by State Statute.

(C) Revoke Prior Approvals

The BoCC may void plats, SIAs or other official documents, or agreements if it is found there has been a material misrepresentation of fact, a failure to abide by conditions of approval, or violation of time limits established in this Code that impacts the design, or legal or physical status of a subdivision or development proposal after holding a

hearing, following the proper notice procedure, in order for the parties in interest to have the opportunity to address any misrepresentation of fact or non-compliance issue.

(D) Appoint Members

The BoCC shall appoint members of the Board of Adjustment and Planning Commission.

(E) Retain Experts

The BoCC may consider the qualifications of, contract with, and retain technical experts to assist in the review of proposals submitted pursuant to this Code.

(F) Delegate Powers

The BoCC may delegate powers, duties, and responsibilities to the Planning Commission, Board of Adjustment, other boards and commissions or committees, and County staff to the extent permitted by law and provided that the delegation is made subject to specific instruction, criteria, and standards to guide the exercise of any delegated discretion.

(G) Impose Reasonable Conditions

The BoCC may impose reasonable conditions upon approval of any application.

(H) Interpret this Code and Hear Appeals

The BoCC is the ultimate interpreter of the meaning and application of this Code as to the type, nature and rights of uses, conforming and nonconforming, as allowed under this Code. Except for those procedures expressly prescribed for appealing of certain administrative decisions, all interpretations or applications by the PCD Director as they relate to uses under this Code and believed to be erroneous or inapplicable may be appealed to the BoCC.

(I) Grant Waivers

The BoCC, at a public hearing on a specific application, may hear the request for a waiver from the subdivision design standards of Chapters 6, 7 and 8 and decide to accept or reject the request, or make modifications to the waiver request.

2.2.2. Planning Commission

(A) Establishment, Membership, and Rules of Procedure

The BoCC shall appoint a Planning Commission. The Planning Commission shall consist of 9 commission members. Each member shall be a resident of El Paso County. The Planning Commission shall meet once a month or as often as deemed necessary for the transaction of business. The authority of the Planning

Commission to conduct its activities, the process for appointment, and the terms of its members are provided in the bylaws of the Planning Commission and by State Statute. The Planning Commission may adopt policies and procedures as it may consider necessary or advisable to discharge its statutory functions, and it shall keep a record of its proceedings

(B) Authority

All decisions of the Planning Commission constitute a recommendation to the BoCC, except those relating to the Master Plan, approval of location, and site approval applications. The Planning Commission, through the authority granted to it by the BoCC and State Statute, is empowered to do the following with respect to administration of this Code.

(1) Develop and Adopt a Master Plan

The Planning Commission may develop and adopt a Master Plan for the physical development of the unincorporated area of the County in accordance with the provisions of C.R.S. §30-28-106.

(2) Review and Act Upon Applications for Amendment to the Master Plan

The Planning Commission may review and approve any amendment to the Master Plan, whether initiated by the County or any citizen or group.

(3) Develop and Adopt a Zoning Plan

The Planning Commission may develop and make a zoning plan or plans for zoning all or part of the unincorporated territory within the County including potential amendments to this Code including text and maps representing those applicable policies identified in the Master Plan. Any regulation or amendment shall be subject to the review and formal adoption by the BoCC.

(4) Develop Subdivision Regulations

The Planning Commission may develop, propose, and recommend subdivision regulations and amendments to subdivision regulations.

(5) Review and Act Upon Applications for Approval of Location of Public Facilities

The Planning Commission may review and act upon applications for the approval of location for a public building, way, place, or space in accordance with the provisions of CRS §30-28-110

(6) Retain Experts

The Planning Commission may consider the qualifications of, contract with, and retain technical experts to assist in the review of proposals submitted pursuant to this Code.

(7) Make Recommendations on Applications

The Planning Commission may review and make recommendations concerning applications for zoning text and map amendments, special use permits, variance of use applications and subdivisions of land and any other applications as identified in this Code, State Statute and the Procedures Manual.

(8) Recommend or Impose Reasonable Conditions Upon Approvals

The Planning Commission may recommend reasonable conditions for approval of any application where the Planning Commission acts as a recommender and may impose reasonable conditions on approval of any application where the Planning Commission acts as a decision maker.

2.2.3. Board of Adjustment

(A) Establishment, Membership, and Rules of Procedure

The BoCC shall appoint a Board of Adjustment. The Board of Adjustment is established by resolution of the BoCC pursuant to State Statutes. The Board of Adjustment shall consist of 5 members. Each member shall be a legal resident of El Paso County. The Board of Adjustment shall meet once a month or as often as necessary for the transaction of its business. The meetings shall be noticed and open to the public. The affirmative vote of at least 4 members is required for any action by the Board of Adjustment regarding an appeal or application.

(B) Authority

The Board of Adjustment shall hear and determine appeals of general relief decisions and dimensional variances in accordance with this Code the Procedures Manual, or as established by Colorado law. Decisions of the Board of Adjustment may not be appealed to the BoCC, but shall be appealed pursuant to State Statute and State Rules of Civil Procedure. The Board of Adjustment, through the authority granted to it by C.R.S. §30-28-117 and C.R.S. §30-28-118 and this Code, is empowered to do the following with respect to administration of this Code.

(1) Grant Variances

The Board of Adjustment may grant or deny a variance pursuant to the requirements and procedures of this Code relating to special physical requirements, but not to use, of the property.

(2) Hear and Decide Appeals of Administrative Determinations

The Board of Adjustment may hear and decide appeals brought by any aggrieved person regarding allegations of error by an administrative official in the application or enforcement of this Code.

(3) Impose Reasonable Conditions

The Board of Adjustment may impose reasonable conditions on approval of any application.

2.2.4. PCD Director

(A) Designation

The PCD Director is designated as the official charged with the administration of the LDC.

(B) Powers and Duties

The PCD Director, through the authority granted by this Code, the County Administrator and the BoCC, is empowered to do the following with respect to administration of this Code.

(1) Render Interpretations

The PCD Director may render interpretations of all provisions of this Code. Interpretations applicable to 2 or more properties (general interpretation) shall be collected and retained by the PCD and made available to the public for inspection. Each general interpretation shall be provided to the Planning Commission, Board of Adjustment and BoCC.

(2) Establish Application Requirements

The PCD Director may establish application and submittal requirements and schedules for review of applications and appeals pursuant to this Code.

(3) Provide Advice

The PCD Director may provide expert technical assistance to the BoCC, the Planning Commission, and the Board of Adjustment and determine when outside, technical expertise is needed to assist in the review of any development application submitted pursuant to this Code.

(4) Review Applications

The PCD Director may review development applications and make recommendations to the BoCC, the Planning Commission, and the Board of Adjustment concerning compliance with this Code.

(5) Maintain Master Plan

The PCD Director may maintain the Master Plan including, but not limited to, land use, transportation, and open space elements.

(6) Administer Standards and Regulations

The PCD Director may administer the provisions of this Code as they relate to the review and permitting of development.

(7) Promulgate Administrative Forms

The PCD Director may promulgate and require the use of application forms and other standardized documentation deemed necessary or helpful to administer the provisions of this Code.

(8) Make Administrative Decisions

The PCD Director may issue written administrative decisions concerning the application of this Code to specific property or development applications, including any grant of relief allowed by this LDC

(9) Issue Administrative Permits

The PCD Director may review and issue administrative permits pursuant to the requirements and procedures of this Code.

(10) Sign Plats and Other Administrative Documents

The PCD Director may sign plats and other documents relating to the application of this Code to specific property or development applications.

(11) Interpret Maps and Regulatory Documents

The PCD Director may interpret maps and regulatory documents for their applicability to a development application, and consult with any other agencies in that interpretation.

(12) Delegate Decision Making Authority

The PCD Director may delegate decision making authority to staff on development applications, maps, or other matters in accordance with the decision-making procedures of the LDC.