

Section 2 – Alternative Standards/Requirements

(am. 12-09-14)

A. Intent and Purpose

The purpose of this section is to specify the requirements and procedures that are applicable when an applicant makes a request to use alternative standards/requirements than those specified in the Land Development Regulations. (orig. 7-12-05; am. 12-9-14)

B. Application

1. The procedures of this section shall be utilized for requests to use alternative standards/requirements than those specified in any Land Development Regulation requirement. The Land Development Regulation includes the Transportation Design and Construction Manual and the Storm Drainage Design and Technical Criteria. (orig. 7-12-05; am. 12-21-10; am.12-9-14; am. 11-24-15)
2. The Director of Planning and Zoning has the authority to make decisions on any request for alternative standards/requirements, unless the specific provision indicates that a decision is to be made by the Board of County Commissioners. (orig. 12-9-14)
3. The decision on a request (denial or approval with conditions) for alternative standards/requirements by the Director of Planning and Zoning may be appealed by the applicant to the Board of County Commissioners. The request for appeal shall be in writing and shall state the specific reasons and evidence why the Director of Planning and Zoning's decision regarding the alternative standards/requirements should be overturned. The appeal shall be submitted to the Planning and Zoning case manager. (orig. 7-12-05; am. 12-21-10; am. 12-09-14)
4. For application types that are presented to the Board of County Commissioners in a public hearing, an applicant may choose to have the alternative standards/requirements presented directly to the Board of County Commissioners at the hearing for the application. (orig. 12-9-14)
5. The following shall be considered for alternative standards/requirements of Land Development Regulation requirements: (orig. 7-12-05; am. 12-9-14)
 - a. The applicant can demonstrate that alternate solutions or designs will not be detrimental to or contrary to the Purpose of this Regulation and will be in harmony with the general purpose and intent of the provision for which a waiver is sought. (am. 7-12-05)
 - b. The applicant can demonstrate that strict compliance with such provision would be impossible or impractical. (am. 7-12-05; am. 7-17-18)
6. Requests for waiver of submittal requirements shall be processed in accordance with the Submittal Requirements section of this Regulation. (orig. 12-09-14)
7. For application types that are presented to the Board of County Commissioners in a public hearing, an alternative standard/requirement that was approved by the Director of Planning and Zoning and is past the appeal period shall not be used as a basis for denial. (orig. 12-9-14)

C. Procedure

A request for alternative standards/requirements may be submitted during the processing of any development application; however, if the development application processing requires that the case be presented to the Board of County Commissioners at a public hearing, then the request for alternative standards/requirements must be submitted at least 30 calendar days prior to said hearing. (orig. 7-12-05; am. 12-21-10, am. 12-9-14)

The Director of Planning and Zoning may require public notification prior to making a decision on a request for alternative standards/requirements. Such notification, when required, shall be in accordance with the standards established in the Notification Section. (orig. 7-12-05; am. 12-21-10; am. 12-09-14)

The following procedure and requirements shall apply to alternative standards/requirements requests.

Steps Prior to 1st Referral

1. Request: The applicant shall submit the following documents for a request for alternative standards/requirements, as applicable. The applicant should consult with the Case Manager for

assistance in identifying the submittal documents for an alternative standards/requirements request. (orig. 12-09-14)

- a. A request letter that identifies the standard(s) or requirement(s) for which alternative standards/requirements are being proposed, and provides the rationale as to why the alternative standards/requirements are needed for the specific project. (orig. 12-09-14)
- b. Where the proposal is to substitute an alternative design from that identified in the regulations, Planning and Zoning may require the applicant to submit a certified statement by a qualified Colorado-registered professional engineer indicating that granting the alternative design will not diminish the overall quality, effectiveness, durability, and safety. Such statement shall bear the professional engineer's seal, signature and date. (am. 7-12-05; am. 12-21-10; am. 12-09-14; am. 12-17-19)
- c. Other documents as required by the Case Manager to support the requested alternative standard/requirement. (orig. 12-09-14)

Staff will review the request to determine if the documents are adequate for the referral process. Following this review, the Case Manager will either send the documents out on 1st Referral or contact the applicant to request additional information. The Case Manager shall have 3 calendar days to respond to the applicant about deficiencies in the submittal documents or to send the revised documents out on referral (orig. 12-09-14)

Process from 1st Referral to Determination/Hearing

2. 1st Referral and Staff Response:

The referral agencies shall have a minimum of 14 calendar days to respond in writing to the application. If the request is sent out concurrently with the referral for the development application, then the referral timeframe will match the referral timeframe of 21 calendar days or 14 calendar days for that application. (orig. 12-09-14; am. 7-17-18)

Notification will match the 1st Referral timeframes as prescribed within this Section and shall be in accordance with the Notification Section. (orig. 12-09-14; am. 7-17-18)

The Case Manager shall have 7 calendar days, after the end of the referral period, to provide the applicant with a Staff response inclusive of other referral responses. The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to the Final Documents phase or if revised documents should be submitted for a subsequent referral process. (orig. 7-17-18)

If the Case Manager indicates that the application is in substantial conformance with all applicable regulations and that only minor revisions to the documents are required, the application may proceed directly to the Final Documents phase of the process. (orig. 7-17-18)

3. Applicant's Response to 1st Referral:

The applicant shall respond to the Staff response and referral agency comments. (orig. 12-09-14; am. 7-17-18)

4. Additional Changes:

For the 2nd Referral, and for any subsequent referrals thereafter, the Case Manager shall have 3 days to send the revised documents on referral. (orig. 12-09-14)

The referral agencies shall have 7 calendar days to respond in writing to the 2nd Referral, and for any subsequent referrals thereafter. If the request is sent out concurrently with the referral for the development application, then the referral timeframe will match the referral timeframe for that application. (orig. 12-09-14)

After the 2nd Referral, and any subsequent referrals thereafter, the Case Manager may choose to forward referral comments to the applicant for redress prior to the finalization of a Staff recommendation on the request. Under this scenario, the Case Manager shall have 5 calendar days, after the end of the referral period, to provide the applicant with a Staff response inclusive of other referral agency responses. (orig. 12-09-14)

5. Determination Preparation (as applicable):

If the request for alternative standards/requirements is eligible for a decision by the Director of Planning and Zoning, and the applicant has decided not to take the request directly to the Board of County

Commissioners for decision, the Case Manager shall have 5 calendar days to prepare the Staff recommendation on the referral request for action by the Director of Planning and Zoning. (orig. 12-09-14)

6. Hearing Preparation (as applicable):

The request for alternative standards/requirements may be scheduled for a separate hearing before the board of County Commissioners or it may be included in the hearing process for the development application (if applicable). (orig. 12-09-14)

- a. Revisions to Documents Prior to Hearing: To ensure completeness and to allow adequate public review, no substantial revisions or additions, except in response to a Staff request, may be made to request alternative standards/requirements or supporting documents within 21 calendar days of the hearing. (orig. 12-09-14)
- b. Notification: Notification of the scheduled hearing is required in accordance with the Notification Section. (orig. 12-09-14)
- c. Below are the possible scenarios for taking a request for alternative standards/requirements forward to a hearing before the Board of County Commissioners. (orig. 12-09-14)
 - (1) If the request for alternative standards/requirements is not eligible for a decision by the Director of Planning and Zoning. (orig. 12-09-14)
 - (2) If there is an appeal to the decision made by the Director of Planning and Zoning. (orig. 12-09-14)
 - (3) If the Director of Planning and Zoning decides to defer the request to the Board of County Commissioners for decision at a public hearing. (orig. 7-17-18)

Determination

8. As applicable, the Director of Planning and Zoning may approve or deny a request for alternative standards/requirements, or may direct staff to present the request to the Board of County Commissioners for decision at a public hearing. (orig. 12-09-14)

Appeal

9. The applicant may appeal the determination by the Director of Planning and Zoning to the Board of County Commissioners within 30 days of said determination. Any appeal by the applicant must be made 21 calendar days before the Board of County Commissioners public hearing for the development application (if applicable). (orig. 12-09-14; am. 7-17-18)

Public Hearing

10. The Board of County Commissioners shall review the alternative standards/requirements request, the Staff report, the Planning Commission recommendation (if applicable), the determination by the Director of Planning and Zoning (if applicable), receive testimony and evidence on the request, and shall approve, conditionally approve or deny the request. The Board of County Commissioners may also continue the request for such additional hearings as may be necessary to receive additional information, complete testimony, obtain Staff response or render a decision. (orig. 12-09-14)