

ARTICLE VIII

VARIANCES FROM REGULATIONS

In the event that it may be shown that strict compliance with this code will result in extraordinary hardship the Board of Adjustment may vary, modify or waive the requirements such that any variance, modification, or waiver shall not have the effect of nullifying the intent and purpose of this code.

In granting any variance, the Board of Adjustment may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of these Regulations.

In no case, shall any variance, modification, or waiver be more than a minimum easing of the requirements and in no instance, shall it conflict with any existing District Resolution.

VIII.1. Cause for Variance

Variance to these regulations shall consist of a minimal easing of the requirements to prevent unnecessary hardship. Any application for variance shall include the cause for such request. The Board of Adjustment will consider the following criteria.

VIII.1.1. Physical Conditions of the Property

Whether there are unique physical circumstances or conditions such as exceptional irregularity, narrowness or shallowness of a piece of property, or whether there are exceptional topographic or other physical conditions or other extraordinary and exceptional situations or conditions peculiar to the affected property.

VIII.1.2. Circumstances or Conditions in the District

Whether unusual circumstances or conditions exist through the neighborhood or district in which the property is located.

VIII.1.3. Source of Hardship

Whether such unnecessary hardship has not been created by the applicant.

VIII.1.4. Special exception to district regulations for the purpose of providing access to sunlight for solar energy devices.

VIII.1.5. Mobile Home Mitigation

VIII.1.5.1. The retrofitting of a pre-1976 Mobile Home to meet the requirements of the National Manufactured Housing Construction and Safety Act of 1974, 42

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U.S.C. Section 5401, et. seq., as amended, (commonly known as the HUD Act, effective June, 1976).

- VIII.1.5.2. Waiver of the requirement for the provision of utilities, if the structure is not to be occupied until a date six months or more from the time of application. The occupancy of said structure prior to meeting the requirements for utilities shall be considered as grounds for permit revocation.

VIII.2. Application for Variance

Application for variance shall be made to the Land Use Administrator indicating the need for variance requested. The application shall include the following.

Application must be signed by landowner(s).

Property Taxes on all affected parcels must be current at the time of Board of County Commissioners review. A Certificate of Taxes Due will be obtained before the Board of County Commissioners review.

- VIII.2.1. Proof of ownership of the land on which a structure is to be located, or a letter from the owner acknowledging their approval of the structure's placement and the requested variance.
- VIII.2.2. Indicated provisions for utilities.
- VIII.2.3. Notification of property owners within fifteen hundred (1500) feet of the affected property may be required by the Board of Adjustment. In this event, names and addresses, as shown in the County Assessor's records, shall be required. Land Use Office shall obtain and send certified mailing notices to all adjoining property owners. Applicant shall be required to pay certified mailing fee before mailings are sent. This notification will add thirty-five (35) days to the application process.
- VIII.2.4. The application must be submitted to the Land Use Office at least 35 days prior to the meeting at which the applicant wishes to have the application heard.

VIII.3. Marijuana Variance Application procedure

There shall be no combination of personal marijuana use and commercial retail use on the same parcel of property.

Saguache County shall only allow for a twelve 12-plant count to be grown on any residential property. Regardless of whether the plants are for medical or

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recreational use, it is unlawful for a person to knowingly cultivate, grow or produce more than twelve (12) marijuana plants on or in a residential property; or to knowingly allow more than twelve (12) marijuana plants to be cultivated, grown or produced on or in a residential property.

Except as provided in Section 25-1.15-106(8.5)(a.5)(I) or section 25-1.5-106(8.6)(a)(1.5) for medical marijuana patient or primary caregiver with a twenty-four (24) marijuana plant count.

If a caregiver or landowner wishes to grow more than the plant count allowed, the cultivation must be done on a separate parcel of land.

A variance may be applied for with Board of County Commissioners review for final approval if requesting over the approved 12/24 count.

A marijuana variance fee will be charged as follows: \$100 application fee + \$10 tag fee per plant over 12 plants. A compliance tag will be issued for each extended plant count. 24 plant tags over the amount allowed will not be charged a tag fee.

- VIII.3.1 Application for variance shall be made to the Land Use Administrator indicating the need for variance requested. The application shall include the following.
- VIII.3.1. Proof of ownership of the land on which a residence and structure is to be located, or a letter from the owner acknowledging their approval of the structure's placement and the requested variance.
- VIII.3.2. Indicated provisions for utilities.
- VIII.3.3. Legal Description of property.
- VIII.3.4. Total Number of Plants.
- VIII.3.5. Square Footage of Structure to be used.
- VIII.3.6. For Medical Usage copy of Doctor approved plant count.
- VIII.3.7. For Caregiver State of Colorado License Number;
- Caregiver patient plant count
 - Number of patients growing for
- VIII.3.8 Landowner(s) signature.

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Application must also address the following:

- Water usage
- Noise pollution – when generator is utilized such units shall comply with all applicable noise and fuel containment regulations
- Light pollution
- Dust control
- Weed and pest control
- All business structures shall be neutral in color – this shall include shipping containers
- Excessive or harmful odor

VIII.3.9 Property Taxes on all affected parcels must be current at the time of Board of County Commissioners review. A Certificate of Taxes Due will be obtained when request is submitted to the Land Use Office.

VIII.3.10. The Land Use Administrator shall review the application and supporting documents for completeness and shall present to the Board of County Commissioners for review and decision. ~~shall review the request and determine if the request may be handled as a full review process with the Board of County Commissioners or if the Land Use Administrator may approve the variance request.~~

VIII.3.11 The decision shall be transmitted to the applicant in writing.

VIII.4. Approval Procedure

The Board of Commissioners will use the following procedure to consider variance applications;

VIII.4.1. The Land Use Administrator shall review the application to ensure that it is complete and eligible for consideration by the Board of Adjustment.

VIII.4.2. The Land Use Administrator will schedule the application for the appropriate Board of Commissioners meeting agenda, and, if necessary, notify adjoining property owners and interested parties by certified, return-receipt mail.

VIII.4.3. The Board of Commissioners will consider the application in a regular meeting. The Board will approve, approve with modifications, or deny the application in a timely manner.

VIII.4.4. The decision shall be transmitted to the applicant in writing.

VIII.5. Revocation

Failure on the applicant's part to comply with the conditions of the variance shall be considered as grounds for permit revocation. If the application is for a mobile home, such revocation may ultimately result in the removal of the mobile home from the County.

REQUIREMENTS FROM ARTICLE XIII – Construction Permit

In addition, any person intending to place a "Mobile Home" within the County shall show proof of the following with the application for a Mobile Home permit.

- XIII.4.1.10.1. A copy of the manufactured home tax certification indicating ownership and point of origin. A certificate of VIN registration that shows the year and make shall also be included.
- XIII.4.1.10.2. A photograph of the structure as a whole and a legible photograph of the HUD sticker and/or other suitable documentation indicating compliance with the National Manufactured Housing Construction and Safety Act of 1974, 42 U.S.C. Section 5401, et. seq., as amended, (commonly known as the HUD Act, effective June, 1976). No mobile home shall be transported into or maintained within Saguache County, which does not comply with state standards as promulgated by the Division of Housing. Mobile home must meet 1976 HUD Standards.
- XIII.4.1.10.3. Any structure older than twenty (20) years and larger than two hundred (200) square foot may not be transported into Saguache County. Any structure legally in place in Saguache County at the time this regulation is adopted may remain in its current position indefinitely. If the structure is moved, it must be moved out of Saguache County.

If structure is not twenty (20) years old this regulation does not apply. Is structure is not larger than two hundred (200) square foot this regulation does not apply.

- XIII.4.1.10.3.1. Before any structure older than twenty (20) years may be moved in the Saguache County, the County must approve a Variance application and a Building Permit application. See Article VIII of the Saguache County Land Development Code for Variance regulation.
- XIII.4.1.10.3.2. Variance application must include a photograph of the structure as a whole and a legible photograph of the HUD

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sticker and/or other suitable documentation indicating compliance with the National Manufactured Housing Construction and Safety Act of 1974, 42 U.S.C. Section 5401, et. seq., as amended (commonly known as the HUD Act, effective, June, 1976).

- XIII.4.1.10.4. Adequate sewage, existing and ready to connect into before any mobile home can be occupied on property.
- XIII.4.1.10.5. A copy of well permit, water court decree or other agreement providing for water service.
- XIII.4.1.10.6. In addition, mobile home shall be placed on permanent foundation or tied and anchored down.
- XIII.4.1.10.7. In addition, skirting, must be attached within 45 days of placement of mobile home.
- XIII.4.1.10.8. No reflective surfaces except glass may be used.
- XIII.4.1.10.9. Any Recreational Vehicle or Vehicle to be used as a permanent residence shall follow all mobile home regulations.

It is encouraged that all skirting coordinate with the mobile home in color. All exterior colors are encouraged to be muted earth tones, which blend with the immediate environment.

It is encouraged that no tires or cement blocks be placed on roof of mobile home.

XIII.5. Mobile Home for Storage within the County

- XIII.5.1. All plumbing fixtures will be removed, and the Land Use Administrator or designated agent will inspect said structure to insure all fixtures are removed.
- XIII.5.2. All Mobile Homes for storage must have the electrical wiring brought up to HUD standards and a copy of the inspection attached to the building permit, or if the mobile home will not have electricity all the electrical wiring will be removed, and the Land Use Administrator or designated agent will inspect said structure to insure all wiring is removed.
- XIII.5.3. All Mobile Homes for storage must be placed on a permanent foundation, such as a concrete slab or stem wall.