



# Board of Adjustment Staff Report

Meeting Date: February 4, 2016

Subject: Revised Board of Adjustment Rules, Policies and Procedures  
Applicant: Planning and Development Division  
**Agenda Item Number: 9B**  
Project Summary: Action to adopt revised Board of Adjustment Rules, Policies and Procedures  
**Recommendation: Review, discuss and approve revised Rules, Policies and Procedures**  
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## **Description**

Discussion and possible action to adopt revised Rules, Policies and Procedures for the Board of Adjustment regarding the conduct of meetings, hearings, and appeals to the Board, and governance matters such as quorum, voting, record keeping, and the duties, responsibilities, and ethical rules for Board members.

## **Rules, Policies and Procedures**

The Washoe County Board of Adjustment adopts a standard set of rules, policies and procedures to guide the Board of Adjustment, and individual Members, in the discharge of their duties. The rules, policies and procedures provide continuity and consistency between the regulations and administrative functions necessary for the Board to execute its obligations. The Board of Adjustment is regulated through Nevada Revised Statute (NRS) and Washoe County Code.

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**Staff Report Attachments**

Articles 912 and 914 of Washoe County Code..... Attachment A

Proposed Rules, Policies and Procedures (annotated) ..... Attachment B

Alternative Draft Proposed Rules, Policies and Procedures (annotated) ..... Attachment C

Alternative Draft Proposed Rules, Policies and Procedures (clean) ..... Attachment D

## **Background**

An update to the Board of Adjustment's Rules, Policies and Procedures was initiated by staff in early 2011. The update was paused to allow the Board of County Commission (BCC) to adopt amendments to Articles 912 and 914 of the County Code (Attachment A):

- a. Establishing new and expanded code enforcement mechanisms through the use of administrative hearing officers;
- b. Setting out when and how appeals to the decisions of administrative hearing officers are made; and,
- c. Defining how building permit and land use code interpretive decisions are appealed to the Board of Adjustment.

Amendments to Articles 912 and 914 became effective in May 2015.

## **December 3, 2015 Meeting Discussion**

At its December 3, 2015 meeting, the Board of Adjustment discussed proposed revisions to its Rules, Policies and Procedures. The proposed revisions sought to achieve conformance with current practices and legal requirements. Specifically, the proposed set of revised Rules, Policies and Procedures:

1. Adds policies and procedures that detail the process for appealing decisions to the Board of Adjustment, and
2. Updates and makes consistent the Board's Rules, Policies and Procedures with the other boards and commissions administered by the Division (such as the Planning Commission).

Members present at the December 3, 2015 meeting posed questions about specific sections of content and requested additional time to review the volume of material provided. Staff agreed to provide additional information, or clarify the language, in the following sections, as included in Attachment B:

- **Section 2.02 – Voting** Legal counsel advised the Board that there is inconsistency between state law and Washoe County Code concerning voting requirements when the Board takes action to reverse a decision being appealed. The Development Code states the reversal of a decision requires the majority of the full membership of a Board, however, NRS 278 Chapter 300, does not make any statement about the majority of the full membership being required. Legal counsel has added a phrase at the beginning of Section 2.02 (a) to acknowledge the inconsistency. Counsel advised that the Board can seek legal counsel for clarification at the time it is faced with a situation where it is voting on a decision being appealed and less than four members of the Board are present for the hearing.
- **Article 5 APPEALS TO THE BOARD** The entirety of Article 5 in the Rules, Policies and Procedures is new, outlining the procedures related to matters being appealed to the Board of Adjustment. The language for Section 5 comes directly from Articles 912 and 914 of County Code addressing procedures for appealing matters to the Board of Adjustment (see Attachment A, specifically Section 110.912.10 (j) beginning on page 912-5). The types of matters that may be appealed to the Board include those outlined in Section 110.912.10 (j) (2) and include decisions of administrative officials, hearing officers, and the technical review boards for building code and fire codes.

- Section 3.09 [12] (c) Questions of presenters, parties and speakers & Section 5.03 (a) (ii) Prehearings These two sections address the Board's power to issue subpoenas, which is a new authority granted to the Board with the amendments to Articles 912 and 914 of County Code (specifically Section 110.912.10 (j) (5) beginning on page 912-6). The Board's subpoena powers are limited to prehearings during appeals. Legal counsel has added language to Section 5.03.
- Section 3.09 [17] (a) Vote Staff has revised language requiring the Chair to announce the names of Members and how they voted at the time of the vote. At the December 3, 2015 meeting, legal counsel advised the Board that public meeting minutes should include references to Member names and how they voted.

### **Alternative Proposal**

While reviewing the revised Rules, Policies and Procedures and considering the discussion that took place at the December 3, 2015 Board of Adjustment meeting on this item, legal counsel has considered how the changes, in total, to the Board of Adjustment's Rules, Policies and Procedures change the legal exposure of the Board. In wishing to minimize the amount of legal exposure, legal counsel concluded it would be best if the Board substantially simplifies its Rules, Policies and Procedures. A primary concern is the document's length and complexity, as well as its redundancy, which together may result in the possibility of increased legal challenges. Legal counsel recommends the Rules, Policies and Procedures should be concise and simple to follow and interpret. Attachment C provides an annotated version of legal counsel's recommendation for a simple, concise set of Rules, Policies and Procedures. Attachment D is a clean version of Attachment C, what the Rules, Policies and Procedures might look like if legal counsel's recommended set of revisions are adopted.

### **Notice and Required Findings**

There are no special procedures and no required findings that must be made before adopting revised Rules, Policies and Procedures.

### **Recommendation**

Staff recommends the Board review and discuss the two alternative sets of Rules, Policies and Procedures – Attachments B and C – and take action to adopt one of the alternatives. A sample motion is provided below.

### **Motion**

After giving consideration to the information in the staff report and information received from staff during the meeting, I move to adopt the Board of Adjustment's revised Rules, Policies and Procedures as shown in Attachment B [or C].

# Article 912

## **ESTABLISHMENT OF COMMISSIONS, BOARDS AND HEARING EXAMINERS**

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### Sections:

110.912.00	<b>Purpose</b>
110.912.05	<b>Washoe County Planning Commission</b>
110.912.10	<b>Washoe County Board of Adjustment</b>
110.912.15	<b>Hearing Examiner</b>
110.912.20	<b>Appeals to the Board of County Commissioners of a Decision by the Board of Adjustment, the Planning Commission, Hearing Examiner or Other Deciding Body</b>

**Section 110.912.00 Purpose.** The purpose of this article, Article 912, Establishment of Commissions, Boards and hearing examiners, is to specify the establishment and authority of the Washoe County Planning Commission, Board of Adjustment and any hearing examiner employed by Washoe County.

*[Amended by Ord. 959, provisions eff. 7/26/96.]*

### **Section 110.912.05 Washoe County Planning Commission.**

- (a) Creation. The Washoe County Planning Commission is hereby created, pursuant to NRS 278.030, to perform all the duties and functions delegated to a County Planning Commission by the terms of NRS 278.010 to 278.630, inclusive.
- (b) Membership and Terms of Office.
  - (1) The Washoe County Planning Commission shall consist of seven (7) members.
  - (2) The term of office of each member shall be four (4) years, or until his or her successor takes office, except that the terms of two (2) of the members first appointed shall be three (3) years, the terms of two (2) of the members first appointed shall be two (2) years and the term of one (1) of the members first appointed shall be one (1) year.
- (c) Appointment and Qualifications.
  - (1) The Chairman of the Board of County Commissioners shall appoint, subject to the approval of the Board, the members of the Washoe County Planning Commission.
  - (2) No member shall be a member of the Washoe County Board of County Commissioners, and one (1) member may also be a member of the Board of Adjustment.

- (3) The members shall be residents of the unincorporated area of Washoe County and registered voters therein at the time of their appointment and continuously throughout their term of office.
- (4) Members of the Planning Commission shall be appointed based on representation as described below. If qualified applicants are not available from a County Commission District at the time that a vacancy occurs in that district, appointments can be made on an At-Large basis.
  - (i) One (1) member from County Commission District One.
  - (ii) One (1) member from County Commission District Two.
  - (iii) One (1) member from County Commission District Three.
  - (iv) One (1) member from County Commission District Four.
  - (v) One (1) member from County Commission District Five.
  - (vi) Two (2) members appointed At-Large without respect to which County Commission District the member shall reside in, except that one (1) member shall reside north of the Truckee River and one (1) member shall reside south of the Truckee River.
- (5) In order to effectuate the representation of Planning Commission members as described in subsection (4), the following schedule shall be followed until each County Commission District has one (1) Planning Commission member appointed from each district and two (2) Planning Commissions have been appointed on an At-Large basis:
  - (i) One (1) member from County Commission District Two in 2003.
  - (ii) One (1) member from County Commission District Five in 2003.
  - (iii) One (1) member from County Commission District Three in 2004.
  - (iv) One (1) member appointed on an At-Large basis who resides south of the Truckee River in 2004.
  - (v) One (1) member from County Commission District Four in 2005.
  - (vi) One (1) member from County Commission District One in 2006.
  - (vii) One (1) member appointed on an At-Large basis who resides north of the Truckee River in 2006.
- (d) Vacancies. Vacancies occurring other than through the expiration of a member's term shall be filled for the unexpired term.
- (e) Compensation. All members of the Washoe County Planning Commission shall be compensated at a rate of \$80.00 per meeting (up to \$400.00 per month), and shall receive compensation for reasonable travel expenses and subsistence allowances made necessary in the fulfillment of their official duties.

- (f) Removal from Office. Any member of the Washoe County Planning Commission may be removed from office, following a public hearing, by a majority vote of the Board of County Commissioners for inefficiency, neglect of duty, or malfeasance of office.
- (g) Meetings and Records.
- (1) The Washoe County Planning Commission shall hold at least one (1) regular meeting in each month.
  - (2) The Washoe County Planning Commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations. This record shall be a public record.
  - (3) Complete records of official actions of the Washoe County Planning Commission shall be kept on file in the office of the Department of Community Development.
- (h) Chairman and Other Officers.
- (1) The Washoe County Planning Commission shall elect its Chairman from among the appointed members.
  - (2) In addition to electing its Chairman, the Washoe County Planning Commission shall create and fill such other of its offices as it may determine.
- (i) Employees.
- (1) The Washoe County Planning Commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the County.
  - (2) The Washoe County Planning Commission may contract with County planners, engineers, architects and other consultants for such services as it may require.
- (j) Funding. The expenditures of the Washoe County Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Board of County Commissioners, which shall provide the funds, equipment and accommodations necessary for the Commission's work.

*[Amended by Ord. 906, provisions eff. 7/27/94; Ord. 1156, provisions eff. 3/22/02; Ord. 1200, provisions eff. 6/6/03; Ord. 1288, provisions eff. 3/24/06.]*

**Section 110.912.10 Washoe County Board of Adjustment.**

- (a) Creation. The Washoe County Board of Adjustment is hereby created, pursuant to NRS 278.270, to perform all the duties and functions delegated to a County Board of Adjustment by the terms of NRS 278.010 to 278.630, inclusive.

- (b) Membership and Terms of Office.
- (1) The Washoe County Board of Adjustment shall consist of five members.
  - (2) The term of office of each member shall be four years, or until his or her successor takes office.
- (c) Appointment and Qualifications.
- (1) The Chairman of the Board of County Commissioners shall appoint, subject to the approval of the Board, the members of the Washoe County Board of Adjustment.
  - (2) The members shall hold no other public office, with the exception that one member may also be a member of the Planning Commission.
  - (3) The members shall be residents of the unincorporated area of Washoe County and registered voters therein at the time of their appointment and continuously throughout their term of office.
  - (4) Members of the Board of Adjustment shall be appointed based on representation of the County Commission Districts as described below. If qualified applicants are not available from the following County Commission Districts, appointments can be made from the County Commission District which would experience the next vacancy.
    - (i) One member from County Commission District One.
    - (ii) One member from County Commission District Two.
    - (iii) One member from County Commission District Three.
    - (iv) One member from County Commission District Four.
    - (v) One member from County Commission District Five.
- (d) Vacancies. Vacancies occurring other than through the expiration of a member's term shall be filled for the unexpired term.
- (e) Removal from Office. Any member of the Washoe County Board of Adjustment may be removed from office, following a public hearing, by a majority vote of the Board of County Commissioners for inefficiency, neglect of duty, or malfeasance of office.
- (f) Powers of Board.
- (1) The Washoe County Board of Adjustment shall hear and decide appeals under NRS 278.300(1)(a) and 278.310(1) as provided in subsection (j) of this section.
  - (2) The Washoe County Board of Adjustment shall also have all the powers pursuant to NRS 278.290 to 278.310, inclusive.



(g) Meetings and Records.

- (1) The Washoe County Board of Adjustment may hold at least one regular meeting each month, but may meet less frequently if the Board so decides. The Board may also schedule special meetings as warranted.
- (2) The Washoe County Board of Adjustment shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations. This record shall be a public record.
- (3) Complete records of official actions of the Washoe County Board of Adjustment shall be kept on file in the office of the Planning and Development Division of the Washoe County Community Services Department.

(h) Chairman and Other Officers.

- (1) The Washoe County Board of Adjustment shall elect its Chairman from among the appointed members.
- (2) In addition to electing its Chairman, the Washoe County Board of Adjustment shall create and fill such other of its offices as it may determine.

- (i) Compensation. All members of the Washoe County Board of Adjustment shall be compensated at a rate of \$80.00 per meeting (up to \$200.00 per month), and shall receive compensation for reasonable travel expenses and subsistence allowances made necessary in the fulfillment of their official duties.

(j) Appeals to the Board of Adjustment

- (1) Preface and Definitions. This subsection establishes general rules governing appeals to the Board of Adjustment as required by NRS 278.310 (2). The Board of Adjustment may adopt supplemental rules not inconsistent with these rules. For the purpose of this subsection, "Board" means the Washoe County Board of Adjustment.

- (2) Matters that May be Appealed. A person aggrieved (as defined in Section 110.910.02) by any of the following decisions may appeal the decision to the Board of Adjustment:

- (i) Decisions of Building Official. Decisions of the Building Official made in the course of enforcing the County Code may be appealed to a hearing officer and the decisions of the hearing officer may be appealed to the Board as provided in WCC 110.910.15. Otherwise, a person aggrieved by his/her inability to obtain a building permit or by the decision of the Building Official made in the course of administration or enforcement of any regulation relating to the soundness of structures may appeal the decision to the Technical Review Board subject to and in accordance with Chapter 100 of this Code (Building Code), and if so appealed, the decision of the Technical Review Board may be appealed to the Board in accordance with this Article. If a

decision of the Building Official is not heard by a hearing officer or the Technical Review Board, then a person aggrieved by the decision may appeal it directly to the Board under this Article; or,

(ii) Decisions of Fire Code Official. Decisions of the Fire Code Official made in the course of enforcing the County Code may be appealed to a hearing officer and the decisions of the hearing officer may be appealed to the Board as provided in WCC 110.910.15. Otherwise, a person aggrieved by his/her inability to obtain a building permit or by the decision of the Fire Code Official made in the course of administration or enforcement of any regulation relating to the soundness of structures may appeal the decision to the Technical Review Board in accordance with Chapter 60 of this Code (Fire Code), and if so appealed, the decision of the Technical Review Board may be appealed to the Board in accordance with this Article. If a decision of the Fire Code Official is not appealed to a hearing officer or the Technical Review Board, then a person aggrieved by that decision may appeal it directly to the Board but only if the decision results in denial of a building permit or is related to the soundness of structures. Decisions relating to public safety or fire code administration or enforcement are not subject to appeal to the Board unless they directly relate to the soundness of a structure or result in denial of a building permit; or,

(iii) A decision of an administrative hearing officer if an administrative enforcement proceeding is completed in accordance with Article 910 of the Development Code; or,

(iv) A decision of the Director the Planning and Development Division made in the course of administration of any zoning regulation or any regulation relating to the location or soundness of structures if the decision cannot be appealed to an administrative hearing officer.

(3) Form and Time for Appeal. Appeals must be in writing on forms or in the format prescribed by, and must delivered to, the Planning and Development Division of the Department of Community Services within 10 calendar days from the date that the decision is communicated in writing to the appellant.

(4) Scheduling of Hearing on Appeal. The Chairman of the Board shall schedule the appeal for a hearing to occur not later than the date of the next regular meeting of the Board but no more than 60 days from the date the appeal was filed in accordance with paragraph (3) unless otherwise agreed with the appellant. Within that timeline, the Chairman of the Board may also schedule a special meeting to hear the appeal. If the appellant fails to observe any prehearing schedule, the Chairman may extend the hearing date for a reasonable period of time.

(5) Prehearing Procedures. The Chairman of the Board of Adjustment may:

(i) Require and oversee ministerial prehearing procedural matters, including prehearing conferences, discovery proceedings,

briefing schedules, evidence assembly and marking; however, matters involving jurisdiction or issues to be heard by the Board, or admissibility of evidence are to be heard by the Board;

- (ii) Issue subpoenas compelling witnesses to appear before the Board; and
  - (iii) Schedule the hearing before the Board.
- (6) Record on Appeal: Additional Evidence. A record on appeal shall be prepared by the County (including either a transcript of or a copy of the recording of the proceeding, at the discretion of the Chairman of the Board) and the Board:
- (i) Shall review the record on appeal and all evidence, testimony, documents, information and arguments introduced and the decision in the proceedings being appealed;
  - (ii) Shall afford all parties an opportunity to respond and present relevant and non-repetitious evidence and arguments on all issues being decided on appeal even if it is new evidence;
  - (iii) Shall conduct a public hearing, and hear and consider relevant information and comments by members of the public, even if they did not appear in the proceeding under appeal;
  - (iv) May consider, upon disclosure, information and comments communicated to Board members before the hearing; and
  - (v) May consider maps, adopted master plans to include area plans, and its own knowledge of conditions that exist.
- (7) Burden of Proof and Persuasion; Reasons for Reversal of Underlying Decisions; Limitations on Awards.
- (i) Decisions of administrative officials, hearing officers, and the technical review boards for building code and fire codes are presumed to be reasonable and lawful, and it is the burden of the appellant to persuade the Board otherwise.
  - (ii) On an affirmative vote of a majority of the members present at the hearing, the Board may affirm the decision being appealed,
  - (iii) On a majority vote of all its members [as required by NRS 278.300 (2)], the Board may reverse, modify or remand a decision if the decision:
    - (A) Was made contrary to the constitution, a statute, an ordinance or regulation, or the law of the case;
    - (B) Exceeds the jurisdiction or statutory authority of the deciding official or body;
    - (C) Was made on unlawful procedure;

- (D) Is affected by an erroneous interpretation or other error of law;
  - (E) Is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, or
  - (F) Is arbitrary or capricious or characterized by abuse of discretion.
- (iv) The Board may not award, allocate or direct the payment of money damages, attorney's fees or costs of the proceeding to any party.
- (8) Decision: Communication.
- (i) The Board may take a matter under advisement and continue the hearing until its next regularly scheduled meeting, or may set a special public hearing to conclude the matter, and may require briefings or seek opinions of counsel. The Board may render a decision and instruct counsel to prepare a written decision either to be signed by the Chairman of the Board or reviewed at a subsequent meeting by the Board (provided, however, that the outcome shall not be changed at the subsequent meeting).
  - (ii) The Board must render a written decision within 60 days after the hearing unless otherwise agreed with the appellant.
  - (iii) When a decision is signed by the Chairman of the Board, a copy shall be delivered to all parties of record, and a copy shall be filed with the secretary to the Board as an official record. When a decision is so served and filed, it is final for purposes of judicial review or appeal. A petition for reconsideration or rehearing is not required as a condition to judicial review or appeal to the Board of County Commissioners.
- (9) Appeals of Board of Adjustment Decisions. A party of record who is aggrieved by a decision of the Board of Adjustment may:
- (i) Seek judicial review of the decision by filing a petition in the Second Judicial District Court for the State of Nevada within 25 days from the date that the decision becomes final as specified under paragraph (8) above, and pursuant to the rules and rulings of the Court; or,
  - (ii) Appeal the decision to the Board of County Commissioners in accordance with Section 110.912.20 of this Article.

*[Amended by Ord. 906, provisions eff. 7/27/94; Ord. 959, provisions eff. 7/26/96; Ord. 1156, provisions eff. 3/22/02; Ord. 1200, provisions eff. 6/6/03; Ord. 1555, provisions eff. 5/8/15.]*

**Section 110.912.15 Hearing Examiner.**

- (a) Creation. The position of hearing examiner is hereby created, pursuant to NRS 278.262, to perform all the duties and functions delegated to a hearing examiner by the Board of County Commissioners pursuant to NRS 278.010 to 278.630, inclusive.
  
- (b) Number of Hearing Examiners and Term of Appointment.
  - (1) Number of Hearing Examiners.
    - (i) The Chairman of the Board of County Commissioners, subject to the approval of the Board, may appoint as many hearing examiners as deemed necessary to fulfill the responsibilities of that position as enumerated in Subsection (e) (1).
  
    - (ii) The Chairman of the Board of County Commissioners shall appoint the Director of Community Development to be a hearing examiner to fulfill the responsibilities of that position as enumerated in Subsection (e) (2). If the Director of Community Development is not qualified to serve as a hearing examiner pursuant to Subsection (c) (3), the Director shall appoint a member of the Department of Community Development who does meet the qualifications to serve as a hearing examiner.
  
  - (2) A hearing examiner appointed to fulfill the responsibilities of that position as enumerated in Subsection (e) (1) shall have a term of four (4) years and may be re-appointed to successive four (4) year terms.
  
- (c) Appointment and Qualifications.
  - (1) The Chairman of the Board of County Commissioners shall appoint, subject to the approval of the Board, hearing examiners.
  
  - (2) A hearing examiner shall hold no other public office, except as provided in Subsection (b) (1) (ii).
  
  - (3) A hearing examiner shall be one of the following:
    - (i) Licensed architect.
  
    - (ii) Licensed attorney.
  
    - (iii) Registered engineer.
  
    - (iv) Member of the American Institute of Certified Planners.
  
- (d) Removal. A hearing examiner may be removed, following a public hearing, by a majority vote of the Board of County Commissioners for inefficiency, neglect of duty, or malfeasance.

- (e) Powers of Hearing Examiner.
  - (1) Variances and Special Use Permits. A hearing examiner appointed pursuant to Subsection (b) (1) (i) is empowered to conduct a public hearing and make a decision on a variance application submitted in accordance with the provisions of Article 804, Variances, and on a special use permit application submitted in accordance with the provisions of Article 810, Special Use Permit.
  - (2) Administrative Permits. A hearing examiner appointed pursuant to Subsection (b) (1) (ii) is empowered to conduct a public hearing and make a decision on an administrative permit application submitted in accordance with the provisions of Article 808, Administrative Permit.
- (f) Compensation. A hearing examiner appointed pursuant to Subsection (b) (1) (i) shall be compensated at a rate of \$80.00 per meeting and shall receive compensation for reasonable travel expenses and subsistence allowances made necessary in the fulfillment of his or her official duties.
- (g) Meetings and Records.
  - (1) A meeting shall be held by a hearing examiner appointed pursuant to Subsection (b) (1) (i) within sixty-five (65) days from the date of submittal of an application to review and act upon variance applications submitted in accordance with Article 804, Variances, and special use permit applications submitted in accordance with Article 810, Special Use Permit.
  - (2) Rules for the transaction of business by a hearing examiner shall be adopted by the Board of County Commissioners.
  - (3) Complete records of official actions by a hearing examiner shall be kept on file in the office of the Department of Community Development, such records to be a public record.

*[Added by Ord. 959, provisions eff. 7/26/96. Amended by Ord. 1234, provisions eff. 05/21/04.]*

**Section 110.912.20 Appeals to the Board of County Commissioners of a Decision by the Board of Adjustment, the Planning Commission, Hearing Examiner or Other Deciding Body.** Except as specifically provided elsewhere in the County Code (such as appeals of master plan decisions by the Planning Commission), this section applies to appeals of decisions of the Planning Commission, the Board of Adjustment, a hearing examiner, or other deciding body.

- (a) Time for appeal; form, fees, stay of decision.
  - (1) A person aggrieved by a decision of the Board of Adjustment, the Planning Commission, a Hearing Examiner, or an administrative enforcement official or a hearing officer following the provisions of Article 910 of the Development Code whose decision is not otherwise appealable (the "deciding body") may appeal the decision to the Board of County Commissioners.
  - (2) The appeal must be in writing and delivered to the Planning and Development Division within 10 calendar days from the date that the

decision being appealed is reduced to writing and is filed with the secretary to the deciding body (for hearing examiner decisions the decision is to be filed with the Director of the Planning and Development Division), and mailed to the original applicant in the proceeding being appealed.

- (3) When the written appeal is filed and fees paid, it operates to stay the implementation of the decision being appealed, even if the appeal is incomplete upon initial submission. The application must be completed as provided for in subsection (4) below.
- (4) The Division may follow up to require the appeal to be on certain forms and/or to obtain more information. The appellant must submit the forms or supply the additional information within 14 business days after written notification by the Division. Failure to do so within this time frame invalidates the appeal submission. The appellant must submit a new appeal containing the original material, and the additional information requested, within 14 business days of written notice that the original application was incomplete. When the Division deems the appeal complete and the fees have been paid, it shall process the appeal as provided herein.
- (5) Fees for the appeal are authorized by NRS 278.3195(2)(g) and may be set by resolution of the Board of County Commissioners.

(b) Scheduling of Hearing; notice.

- (1) Scheduling a hearing. Under NRS 278.3195(2)(d)(2), a decision must be rendered on the appeal within 60 days from when the Division deems the appeal to be complete, and the County Clerk shall schedule a public hearing on the appeal accordingly.
- (2) Notice. Notice for the public hearing before the Board of County Commissioners shall be the same as the required notice set out in the Development Code for the proceeding being appealed. For example, if there is an appeal of a decision to deny a special use permit, then notice for the appeal hearing shall be the same as in WCC Section 110.804.20 for the underlying special use permit. Other than notice to the appellant, notice is not required for the appeal of administrative enforcement decisions that are affirmed or denied by the appellate body.
- (3) Panels. The Board of County Commissioners may appoint two or more of its members to serve as a panel to hear the appeal and render a decision that would be binding on the Board of County Commissioners. Each appointment shall select which commissioner is to preside over the proceeding, include instructions as to voting rights and requirements, indicate whether or not decisions of the panel may be appealed to the whole Board of County Commissioners, and include any other procedural matters deemed important to the Board of County Commissioners.

- (4) Record on Appeal; Prehearing Procedures.
- (i) At least 20 days before the hearing, the Division shall prepare a record on appeal including the written appeal, the written decision or action order being appealed, draft minutes or recording of the proceeding leading to the decision being appealed, the staff report and all materials submitted to the deciding body in connection with the hearing. The original shall be filed with the County Manager's Office and a copy shall be provided to the appellant for use and reference at the hearing before the Board of County Commissioners.
  - (ii) The Chairman of the Board of County Commissioners or the presiding officer of the panel may:
    - (1) Issue subpoenas compelling witnesses to appear at the hearing;
    - (2) Require and oversee prehearing procedural matters, including prehearing conferences, discovery proceedings, briefing schedules, and evidence assembly and marking; and
    - (3) Agree to stipulated continuances or other scheduling matters.
- (5) Hearing procedures: evidence. At the hearing, the Board of County Commissioners:
- (i) May consider the matter de novo or as an appeal limited to determining if the deciding body abused its discretion;
  - (ii) Shall afford all parties an opportunity to respond and present relevant and non-repetitious evidence and arguments on all issues being decided on appeal (even if it is new evidence);
  - (ii) Shall hear public comment on the matter being heard; and
  - (iv) Shall view the record on appeal and all evidence, testimony, documents, information and arguments introduced at the hearing.
- (6) Burden of persuasion; standards of review and final decision by Board; judicial review of Board's decision.
- (i) Burden of Persuasion. Decisions of the Board of Adjustment, Planning Commission or Hearing Examiner, or an administrative enforcement official or a hearing officer are presumed to be reasonable and lawful, and it is the burden of the appellant to persuade the Board of County Commissioners otherwise.
  - (ii) Findings. On appeal, the Board of County Commissioners may review the findings made by the deciding body and may affirm, reverse, modify or apply a different interpretation to any finding.



Unless otherwise required by a specific provision in statute or code relating to the type of matter being appealed, the Board of County Commissioners is not required to make specific findings.

- (iii) Guiding Policy. In reviewing the decision, the Board of County Commissioners shall be guided by the statement of purpose underlying the regulation of improvement of land expressed in NRS 278.020 [NRS 278.3195(2)(f)].
- (iv) Possible actions: vote required. On a majority vote of all its members, the Board of County Commissioners may affirm, reverse, or modify the decision of the deciding body. If the decision being appealed is the denial of a building permit, special use permit, variance, master plan amendment, regulatory zoning amendment, or other entitlement, the Board of County Commissioners may either remand the matter back to the deciding body with instructions or may directly grant the building permit, special use permit, variance or other entitlement if properly agendized under the open meeting law and subject to NRS 278.220 for master plan amendments.
- (v) Memorandum of Decision. A memorandum of decision shall be prepared by and filed with the County Clerk and mailed to the appellant, and when filed and mailed, the decision of the Board of County Commissioners is final for purposes of judicial review.
- (vi) Judicial Review of BCC Decision. A person aggrieved by the decision of the Board of County Commissioners may file a petition for judicial review within 25 days of the filing of the Memorandum of Decision with the County Clerk.

*[Added by Ord. 1555, provisions eff. 5/8/15]*



# Article 914

## ESTABLISHMENT OF DIVISION

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### Sections:

110.914.00	<b>Purpose</b>
110.914.05	<b>Planning and Development Division of the Washoe County Community Services Department</b>

**Section 110.914.00 Purpose.** The purpose of this article, Article 914, Establishment of Division, is to specify the establishment and authority of the Planning and Development Division of the Washoe County Community Services Department.

*[Amended by Ord. 1555, provisions eff. 5/8/15]*

### **Section 110.914.05 Planning and Development Division of the Washoe County Community Services Department.**

(a) **Division Created.**

- (1) There is hereby created the Planning and Development Division of the Washoe County Community Services Department.
- (2) The division shall be responsible for the development and administration of comprehensive planning programs, as well as development review programs, including business licensing and codes compliance, for the County in accordance with relevant local, state and federal ordinances, laws and regulations, as well as such other functions as may be assigned by the Board of County Commissioners.

(b) **Director's Position Created.**

- (1) The position of the Division Director Planning and Development is hereby created. The Director shall be appointed by the Community Services Department Director and shall serve at the pleasure of the Community Services Department Director.
- (2) The Director shall appoint, pursuant to any applicable provisions of law regulating County personnel, such technical, clerical and operating staff as the execution of the duties of the Director and operation of the department may require.

- (c) **Director's Powers and Duties.** As the executive head of the division, the Director shall direct and supervise all administrative, technical and operational activities of the division. In addition to such activities as may be required in the daily administration of the division, the Community Services Department Director may make additional assignments as deemed necessary. The Director shall have the authority to interpret and make decisions regarding the provisions of the Development Code.

- (d) Compensation.
- (1) Except as provided in Subsection (d)(2) of this section, the salaries and other fringe benefits of the Director and employees of the Planning and Development Division shall be established in accordance with the provisions of the Merit Personnel Ordinance or any other applicable laws regulating the employment of County personnel.
  - (2) The salary for the position of Director shall be established by the Board of County Commissioners.
- (e) Programs. The division shall consist of such programs, as are deemed necessary to the efficient performance of the duties of the division, created upon the recommendation of the Director and approved by the Community Services Department Director.
- (f) Appeal of a Director's Decision. A person aggrieved by a decision of the Director may appeal the decision in accordance with Section 110.912.10 of the Development Code.

*[Amended by Ord. 1156, provisions eff. 3/22/02; Ord. 1234, provisions eff. 5/21/04; Ord. 1555, provisions eff. 5/8/15.]*



# *Washoe County Board of Adjustment* ***DRAFT RULES, POLICIES AND PROCEDURES***

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January 21, 2016

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**Article 1 DEFINITIONS AND GENERAL POLICIES**

**1.01 Definitions**

The following words have the following meanings for purposes of these rules, policies and procedures:

- a. **Adjudicative matter** means deciding or recommending how legislative policies (such as master plans, zoning regulations and provisions in the Development Code) would apply to individual properties usually upon application by property owners. Examples of adjudicative matters include applications by landowners for special use permits, administrative permits, variances, parcel or subdivision maps, development agreements, and master plan amendments or re-zoning requests for an individual property or project.
- b. **Board** means the Washoe County Board of Adjustment.
- c. **BCC** means Washoe County Board of County Commissioners.
- d. **Division** means the Planning and Development Division of the Community Services Department.
- e. **Development Code** means the Development Code of Washoe County, WCC Chapter 110.

- f. **Director** means the chief executive or director of the Division, or his/her designee.
- g. **General Business matter** includes taking action on general business items and procedural matters such as election of officers, appointment of committees, ceremonial or administrative resolutions, and amendments to these rules.
- h. **Legislative matter** includes establishing overall land use policies or designations involving a large area consisting of multiple properties in disparate ownership, including adoption or amendment of the master plan or regulatory zoning regulations as they would generally apply to multiple properties of diverse ownership, or amendments to the Development Code. However, an application for a master plan amendment or regulatory zoning classification for the benefit of a particular property or project is considered as an adjudicative matter.

## 1.02 Board Determines Rules, Policies and Procedures

The Board, under state statute (Nevada Revised Statutes [NRS] 278.290 to 278.310 inclusive) and by Development Code (Section 110.912.10), has the responsibility for reviewing and approving variances, administrative permits and special use permits for the unincorporated portions of the County. In addition, the Board is responsible for making determinations on appeals of administrative decisions concerning zoning regulations and regulations concerning the location or soundness of structures made by County officials. In the furtherance of these responsibilities, the Board adopts the following rules, policies and procedures and from time to time may amend said rules, policies and procedures. Furthermore the Board has all the powers and duties imposed on it by law, including NRS Chapter 278 and the Washoe County Development Code. These rules have no effect to the extent of any conflict between any provisions of these rules and any applicable constitutional provisions, statutes, or county code provisions.

## 1.03 Duties and Responsibilities

- a. POLICY
  - i Members of the Board shall keep themselves informed on planning laws, policies, procedures and trends in planning practice, and ethics laws of Nevada.
  - ii The five Board Members shall represent the best interests of unincorporated Washoe County.
  - iii Members shall endeavor to provide questions on agenda items to the Planning Managers or staff of the Division a minimum of 24 hours prior to the meeting on which the agenda item is scheduled.
- b. RULE
  - i Members shall be prompt and diligent in attendance.
  - ii Failure of a Member to attend three successive regular meetings, or miss more than 25% of scheduled meetings annually, will be reported to the BCC and said absences may be considered justifiable cause for replacement.

## 1.04 Communications Outside of Public Hearings or Meetings

- a. POLICY. General: Except for legislative and general business matters, Members should

avoid ex parte communications (i.e., private communications outside a public meeting with interested parties) regarding matters coming before the Board. Parties should be encouraged to discuss their comments with staff or at the public hearing rather than privately with individual Members.

- i. Legislative and General Business matters. With respect to such actions:
  - a) When being approached or when discussing such matters, there are no policy or legal restrictions, or disclosure requirements. Members are urged to be discreet and not form or communicate any prehearing bias.
  - b) Members are authorized and encouraged in NRS 278.190 to promote public interest in land use plans and policies. Such encouragement includes consulting with public officials and agencies; with public utility companies, civic, educational, professional and other organizations; and, with citizens generally in relation to the carrying out of such legislative and policy matters.
- ii. Adjudicative matters. With respect to such actions:
  - a) Members should avoid ex parte communications with parties who have an interest in the matter.
  - b) Unsolicited correspondence, emails or phone messages should be preserved so they may be put in the record.
  - c) Members must disclose all ex parte communications. If during any such contacts, a Member obtains information that he/she might consider as important when deciding an adjudicative matter, the Member must assure that the information is:
    - already public knowledge;
    - has been included in the reports or presentations; or,
    - is disclosed or otherwise brought out at the public hearing so that interested parties may have an opportunity to comment on it.
  - d) Members must keep an open mind and not form or communicate any preferences or thoughts that may be perceived as prehearing bias.
- iii. Site Visits. Site visits may be important to gain a better understanding of the proposed actions and their impact on surrounding lands. Members may view sites from public roadways to gain understanding, however, site visits are subject to any applicable legal restrictions on the entry of land, and site visits must be pursuant to any required authorization of the owner(s) of the land being visited.
  - a) Ex parte contact may be unavoidable during site visits and should be limited to the extent practicable. If ex parte contact occurs, it must be disclosed as provided above. It is advisable to have a staff member or another person participate in the site visit and any discussions at the site.
  - b) Members must disclose that they conducted a site visit and do not need to describe what they saw if it is in plain public view. Any information gained during a site visit that is significant in forming a conclusion must be disclosed at the public hearing, if the information has not otherwise been disclosed in the reports and presentations.
- iv. Attorney Communications. Communications with the attorney assigned by the District Attorney's Office or any other attorney appointed or retained to represent or advise the Board are confidential and privileged attorney-client communications and are not subject to disclosure.



b. RULE

- i. Ex parte contact with respect to legislative and general business matters need not be disclosed and does not disqualify a contacted Member from discussion and voting on the item under consideration by the Board. Ex parte contact with respect to an adjudicative matter does not disqualify a Member from voting on the matter if disclosure is made and that information derived from the contact(s) that is being considered by the Member is either public knowledge, has been included in the reports or presentations, or is otherwise brought out at the public hearing so that interested parties may have an opportunity to comment on it.
- ii. Members shall not solicit, offer or accept any offer for any business relationship or arrangement with any interested party. Any preexisting, ongoing or expected business relationship with any interested party must be disclosed and may be grounds for abstention under NRS Chapter 281A.

**1.05 Ethical Principles for Planning; Disclosures and Abstentions**

a. POLICY

- i The Board is governed by Nevada's ethics laws, including NRS Chapter 281A. The Board may also use the American Planning Association's *Ethical Principles in Planning (Appendix A)* as guiding principles for the conduct of Board Members.

b. RULE

- i. Potential Conflicts of Interest. In connection with matters coming before the Board, NRS 281A.420 discusses three circumstances where disclosure and abstention may be required. These three circumstances include when a Member:
  - has accepted a gift or loan,
  - has a significant pecuniary interest, or
  - would reasonably be affected by the Member's commitment in a private capacity to the interests of another person in connection with the matter.

In any of those circumstances, the Member should check current statutes and rulings of the Nevada Commission on Ethics to determine what disclosures should be made and when abstention is warranted. If disclosure is required, it should be made before the matter is discussed by the Board, and at that time the Member must also discuss whether or not he/she is abstaining, and why. If abstaining, it is not necessary to leave the room during deliberation and vote, but the Member should leave his/her seat on the Board until after the vote.

- a) If a Member has an ownership interest in property or a project being considered individually for a special use permit, variance or appeal of administrative decision, the Member must abstain but may address the Board to discuss facts about the property, the project or the proceeding but must not ask, advocate or give any reasons for or against a vote.
- b) If a Member has an ownership interest in land or a project that is being considered with other parcels of land for a special use permit, variance or appeal of administrative decision and shares benefit or detriment no greater than other owners of properties also being considered, while disclosure is necessary, abstention is not required unless otherwise indicated by the Nevada Commission on Ethics rulings.

## Article 2 QUORUM AND VOTING

### 2.01 Number of Members Required to Conduct Business

- a. For general matters of business a quorum of the Board shall be a simple majority of the Board, three Members.
- b. For a matter requiring a majority vote of the full membership as required by state statute the following rules apply:
  - i. Full membership means the number of Members appointed and serving on the Board. An unfilled vacancy does not count as part of the total membership. For example, if four Members are appointed and serving on the Board, not less than three Members must be in attendance and vote to approve the action on said motion. The term "in attendance" means physically present at the meeting or attending the meeting through a telephone or video conference.
  - ii. In the event that the minimum required Members of the Board are not present, the item shall be scheduled for the next appropriate regular meeting.

### 2.02 Voting

- a. ~~An~~—Unless otherwise required by law, an affirmative vote by a majority of the Members present at a meeting is required to approve all matters. An affirmative majority vote of the Board at a meeting is required to reverse, modify or remand a decision being appealed. In the absence of an affirmative vote by a majority of the Board at a meeting to reverse, modify, or remand a decision being appealed, the decision being appealed stands.
- b. The Chair shall be a voting Member.
- c. The Chair may call for, or a Member may request, a roll call vote on any issue.
- d. An abstention shall be a non-considered vote.
  - i. If a Member abstains under NRS 281A.420(5), the necessary quorum and the number of votes necessary to act upon the matter are reduced as though the Member abstaining was not a Member of the Board.
  - ii. If a Member abstains for any other reason, the necessary quorum or number of votes necessary for action is not reduced.
- e. A tie vote means the motion does not pass. If, however, one or more Members are absent or abstain from the vote and a tie vote occurs, any Member, and/or the applicant in an adjudicative matter, may ask for and shall be granted a continuance to the next meeting of the Board.

### 2.03 Motions to Reconsider

A motion to reconsider any action taken by the Board may be made only during the meeting at which the action was taken or at the next regularly scheduled meeting. A motion to reconsider must be made by a Member who voted on the prevailing side of the motion being reconsidered, but a motion to reconsider may be seconded by any Member. A previous motion failing by virtue of a tie vote may be reconsidered upon motion of any Member. If a motion for reconsideration relates to an item requiring legal

notice, only the motion itself shall be debated and, if passed, reconsideration of the item continued to a future date to allow for the provision of legal notice.

### **Article 3 MEETINGS**

#### **3.01 Notice and Agenda**

- a. The Board is a public body and must comply with the laws of Nevada regarding public and open meetings, including NRS Chapter 241 (open meeting law). Written notice of all meetings will be given in the time and manner specified in the open meeting law. In addition to disclosures required by the open meeting law, the notice and agenda may refer to, describe or implement these rules, including but not limited to, statements about public comment time limits, meeting decorum, hearing procedures, Member and participant conduct, voting procedures and appeals.
- b. Robert's Rules of Order, as amended, may be used for guidance for Board meeting procedures when a question or controversy arises. Alternatively, the Chair may employ other procedures or techniques in an effort to provide for deliberation, an opportunity for the public and Members to be heard and for the Board to reach a consensus and/or decision.
- c. In order to maximize public participation in a meeting, Board meetings should not extend beyond 6:00 p.m. and the Chair is authorized to continue items that would start after that time.

#### **3.02 Regular Meetings**

- a. The Board may hold at least one regular meeting each month, but may meet less frequently if the Board decides. The Board may also schedule special meetings as warranted, including prehearing conferences, discovery proceedings and appeals.
- b. The first Thursday of every even-numbered month is the regular meeting day.
  - i. Should the first Thursday of the month fall on a holiday, or interfere with a special event using the meeting facilities of the County complex, the meeting shall be held on an alternate date and/or at an alternate meeting facility as determined by the Chair or Acting Chair.
- c. Order of Business. Regular meetings shall be conducted in the following order: Asterisks (\*) are used to denote non-action items. Agenda headings will be modified to correctly indicate whether or not an item is an action (no asterisk) or a non-action action (\*).
  1. \*Determination of a Quorum
  2. \*Pledge of Allegiance
  3. \*Ethics Law Announcement
  4. \*Appeal Procedure
  5. \*General Public Comment
  6. Approval of Agenda
  7. Approval of Minutes
  8. Consent Items

9. Public Hearings
10. Planning Items
11. Chair and Board Items
12. Director's and Legal Counsel's Items
13. \* General Public Comment
14. Adjournment

### **3.03 Special Meetings**

Special meetings may be held, as required, upon call of the Chair or Acting Chair, or upon the call of not less than three Board Members.

### **3.04 Emergencies**

- a. Subject to compliance with the open meeting law, an emergency meeting may be called or an emergency item may be added to any regular or special meeting when unforeseen circumstances require action and include, but are not limited to:
  - i. Disasters caused by fire, flood, earthquake or other natural causes; or,
  - ii. Any impairment of the health and safety of the public.
- b. Before proceeding with any emergency meeting or considering any emergency item, the Board must, by the affirmative vote of a majority of the Members present, find that an emergency exists and specify the reasons after receiving advice from the Board's legal counsel.

### **3.05 Continued Items**

- a. The Board may vote to grant a continuance on an agenda item upon request of a Member, the Applicant or the Applicant's Representative. If the Board decides to continue an item, the Chair shall first ask if anyone in the audience wishes to testify on the matter even though it may be continued to another date, time and location certain.
- b. Should an item appearing on an agenda be continued to another specified place, date and time, and a Board Member is absent from the first meeting but present for the next meeting for which the item is scheduled, the absent Board Member shall endeavor to learn what occurred during the first hearing through review of the minutes and recorded media, and shall declare at the next meeting that he/she has familiarized themselves regarding the case and is prepared to discuss, deliberate and vote on the matter.

### **3.06 General Expectations of Members During Meetings**

- a. Members shall treat each other and all persons at a meeting with respect before, during and after the meeting. The decorum rules stated below apply to Members as well as members of the public.
- b. Members shall be attentive to the proceedings and give their undivided attention to speakers. Engaging in private conversations, performing tasks not associated with the meeting and displaying obvious boredom are disruptive to the meeting process.

- c. Members shall endeavor to address questions of audience members through the Chair.
- d. Members should be neutral in their response to speaker's opinions through their questions, comments and body language and should not express an opinion on the agenda item before all public testimony has been provided, although the expression of opinions during public testimony may be appropriate during legislative or general business matters.
- e. Members shall be prepared for each item that is listed on the agenda.

### **3.07 Meeting Decorum; Removal for Disruptive Conduct**

- a. Meetings of the Board are limited forums for the governmental purpose of making planning decisions for the community in accordance with its duties under state and local law. That governmental purpose is efficiently accomplished only when the process established by law is followed and all participants in a meeting conduct themselves within the limits established and with decorum, civic responsibility and mutual respect.
- b. It is the intent of the Board to maintain the highest level of decorum. The Chair is authorized to take appropriate actions to maintain such decorum to include declaring recesses, admonishing speakers and other remedies set forth below.
- c. The viewpoint of any speaker will not be restricted, but reasonable restrictions may be imposed upon the time, place and manner of speech at the meeting. Unless otherwise required by law, remarks which are irrelevant, impertinent, unduly repetitious, or which contain personal attacks, implied or actual threats, fighting words or profanity are not consistent with efficiently accomplishing the governmental purpose.
- d. The Chair may remove (with or without warning) any person who willfully makes the kind of remarks described above or engages in other disorderly conduct, if such remarks or conduct makes the orderly conduct of the meeting impractical. Removal for disruptive conduct will be for the remainder of the meeting. If the Chair removes a Member for disruptive conduct, the removal may be only for the agenda item being considered when the disruption occurred.

### **3.08 Addressing the Board; Participant Conduct**

- a. General Public Comment Period. The following rules apply during the designated "general public comment" period(s) of any meeting where members of the public are permitted to speak on any matter on or off the agenda (as opposed to comments made during planning items or public hearings on specific agenda items):
  - i. Unless otherwise specified on the agenda, any person may speak regarding any topic, on or off the agenda. The Chair may remove any person for willful disruptive conduct as described in section 3.07.
  - ii. No action may be taken on any subject brought up during a general public comment period until properly agendized and called up for consideration and possible action. [See NRS 241.020(2)(a)(3)]
  - iii. Unless a different time is established by the Chair at the opening of general public comment, time limits for speaking will be three minutes per person. Should the Chair establish a different time limit for speaking, the different time limit will apply to both general public comment periods on the meeting's agenda. Speakers may not reserve time or give time to others. Members may ask questions of the speakers after the speaker's time limit has been reached.

- iv. Individual speaker times may be adjusted by the Chair to accommodate questions by Members.
- v. Speakers must complete and submit to the Recording Secretary a "Request to Speak" form, and must identify themselves at the beginning of their presentation.
- b. Planning Items or Public Hearings on individual Agenda Items. The following rules apply to persons speaking during planning items or public hearings on individual agenda items (as opposed to speaking during general public comment periods).
  - i. Receiving public input during individual agenda items are part of a governmental planning process and, in order to efficiently pursue that process, persons addressing the Board during such items are to speak only to the topic being considered. Irrelevant or overly repetitions comments by the same person delays and disrupts the process. The Chair may remove any person for willful disruptive conduct as described in section 3.07.
  - ii. Speakers must sign and deliver to the Recording Secretary a "Request to Speak" form.
  - iii. Except as otherwise provided in these Rules or otherwise modified by the Chair or Board, speakers shall limit their presentation times to three minutes for individual speakers. If a speaker represents an organization, he/she may be given five minutes to speak, but only one person from the organization will be given this extra time. No speaker may reserve or transfer his/her time to another speaker. The Chair may adjust individual speaker time limits to accommodate questions by Members.
  - iv. Applicants and amicus organizations. The applicant or his/her representative or a person representing an amicus group (a group with special knowledge or interest in the agenda item who desires to testify as a friend of the Board) may notify Division staff prior to the start of a noticed meeting that a longer time is requested to make a presentation. When making the notification, an approximate amount of time needed to make the presentation must be provided. The Division will notify the Chair, who has the discretion to grant, modify or deny such a request at the beginning of the agenda item.
  - v. Speakers are encouraged to acknowledge support of a previous speaker's comments and discouraged from repeating the same point in order that the meeting may be efficiently conducted.
  - vi. Audience members are encouraged not to visibly display support or opposition (such as clapping, whistling, etc.) to a speaker's points or Board actions in a manner that disrupts the orderly conduct of the meeting. To the extent such actions make the orderly progress of the meeting impractical, the Chair may order such conduct as disruptive and remove offenders (as described in section 3.07).

### **3.09 Procedures for Individual Agenda Items**

- a. General Principles. These rules are intended to promote consistency, efficiency, and fairness and to maximize public input in the conduct of meetings of the Board. These rules apply to all proceedings before the Board.
- b. Consent Agenda.
  - i. The consent agenda may be used for matters which need not be individually discussed and acted on and may be more efficiently handled on a block vote.

Examples of items typically handled on the consent agenda are acceptance of dedications and approval of property abandonments which are requested by or for the benefit of the County.

- ii. Items which require a public hearing shall not be placed on the consent agenda.
  - iii. When announcing the consent agenda, the Chair shall ask for and allow public comments on any item. Any Member may ask for removal of an item from the consent agenda and it shall be removed and handled as a general business item under Rule C(7)(c). Otherwise, consent agenda items may be voted on as a block.
- cb. Step by Step Procedures for individual agenda items (except as specifically required by law, these steps are meant as a procedural guideline and rigid adherence may be dispensed with, formally or informally, as deemed appropriate by the Chair during a meeting).
- [1] **Chair calls on staff to introduce the item.** This is only an introduction identifying the parties and the general nature of the proceeding.
  - [2] **Jurisdictional/procedural issues.** For items requiring special notice, Chair asks if all notices required by law have been given and if staff has proof of publication and service where required.
  - [3] **Disclosures by Board Members.** Chair asks for any disclosures and abstentions required by NRS 281A.420 (*Ethics in Government*) and/or any disclosures under Board Rules regarding ex parte contacts with the Applicant or any interested party.
  - [4] **Chair advises audience of general hearing procedures.** If the item has been described as a public hearing item, the Chair will explain the process and rules to be followed. Public hearing or not, the Chair shall advise that this is an action item under the open meeting law and that public comment shall be heard before the Board deliberates toward a decision.
  - [5] **Chair may canvass the audience** to determine who is present to hear or speak on the agenda item, who is for or against approval of the item or to obtain other information useful in managing the hearing and meeting.
  - [6] **Chair opens the public hearing** for presentations and public comment.
  - [7] **Staff presentation.**
    - a. Staff will be given 15 minutes to present and discuss the item. Members may ask questions. The time limit may be adjusted by the Chair to accommodate questions by Members, or if the Chair believes that extra time is essential to a complete presentation of probative and non-repetitive information.
  - [8] **Applicant presentation and rebuttals.**
    - a. For adjudicative matters or other matters initiated by an application from someone other than the Division, the Applicant will be given 15 minutes to present and discuss the item. The Applicant may be represented by counsel or any other person or persons. Members may ask questions.
    - b. The time limit may be adjusted by the Chair to accommodate questions by Members, or if the Chair believes that extra time is essential to a complete presentation of probative and non-repetitive information.
    - c. For adjudicative matters, staff will be offered five minutes of rebuttal time following the Applicant's presentation, and the Applicant will be offered five minutes of rebuttal time following staff's rebuttal. The time limits may be adjusted by the Chair

to accommodate questions by Members, or if the Chair believes that extra time is essential to a complete presentation of probative and non-repetitive information.

**[9] Public comment and rebuttal to public comment in adjudicative matters.**

- a. Following presentations, the Chair will call for public comment in accordance with section 3.08.
- b. In adjudicative matters, staff and the Applicant shall be given a reasonable opportunity to comment on any public testimony heard by the Board. The Chair shall decide what is reasonable, and is not required to afford equal time to the Applicant for each public testimony.

**[10] Board questions.** Board Members may ask questions of staff, the Applicant or members of the audience. At the discretion of the Chair, a member of the public who previously testified, or staff may be asked to comment on any materials or information presented during the public hearing.

**[11] Documents and evidence.**

- a. The staff report and all of its exhibits, and all documents offered by any presenter or speaker, shall be kept with the minutes and are public records.
- b. Any party, presenter or speaker may offer additional evidence if it is relevant to the proceeding. If a person wants to present documentary evidence to the Board, ten copies shall be prepared and delivered to the Recording Secretary for distribution to the Board.
- c. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted by the Chair. In adjudicative matters, the parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection.
- d. Irrelevant, immaterial or unduly repetitious evidence may be excluded by the Chair. The Board shall observe rules of privilege recognized by law. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the specialized knowledge of the Board.

**[12] Questions of presenters, parties and speakers.**

- a. Questions to presenters, speakers or the public must be made through or with the permission of the Chair.
- b. In adjudicative matters, if staff or the Applicant needs to ask questions of the parties or members of the audience, the Chair may ask the person to come forward and answer questions posed by the Chair.
- c. **Except when compelling witnesses to appear before the Board as part of an appeal, the Board does not have subpoena power and witnesses may not be compelled to speak or be examined or cross examined in a trial like manner.**

**[13] Chair closes public hearing.** When presentations and public comment have been completed, the Chair may close the public hearing. However, the Chair may reopen public hearing at any time to receive new evidence or comments.

**[14] Discussion and additional fact finding.**

- a. The Chair may call for discussion or a motion.



- b. At any time during discussion or deliberation on a motion, the Chair may call (without reopening the public hearing) persons forward to answer questions or present information.
- c. The Chair may also reopen the public hearing to hear public comment.

**[15] Motions.**

- a. Motions must be seconded before acceptance or debate. If a motion is not seconded, it is considered moot and the Chair may call for further discussion or a new motion. Unless otherwise directed by the Chair, motions may be made and voted upon in accordance with Robert's Rules of Order.
- b. Motions must incorporate all findings of fact required by law.
- c. In adjudicative matters, the motion should be to do any one or combination of the following:
  - i. Approve the application with or without conditions.
  - ii. Add, remove or adjust individual conditions from the original motion by a motion to amend, which shall be voted upon before the original motion is taken up for a vote.
  - iii. Remand the application back to the Division for further review and/or action. The remand must give reasons for the remand, including instructions on actions to be taken by the Director or Division, and should include a suitable time frame for the action. The Board may also provide that the actions taken on remand may be appealed back to the Board.
  - iv. Deny the application with or without prejudice. See section 4.02.

**[16] Deliberation on motion.**

- a. During deliberation on motions, Board Members are encouraged to discuss their views of the evidence and why they are going to vote for or against the motion.
- b. If findings of fact are required for approval of an item, Members are encouraged to individually discuss proposed findings. At a minimum, each Member shall discuss any findings that he/she cannot agree with.
- c. In adjudicative matters, the Board may continue or postpone a decision on the matter for up to 60 days after the hearing, but a motion to postpone or continue shall specify a date and the conditions under which the matter will be brought up for a decision.

**[17] Vote.**

- a. The Chair shall call for a vote., ~~and shall announce the~~ The results of the vote indicating by name who voted in favor or and who voted against the motion, and any abstentions, ~~which~~ shall be recorded in the minutes.
- b. If no motion is made, if a motion to deny is passed, or if a motion to approve an adjudicative matter does not receive the required number of affirmative votes, it is deemed denied with prejudice. However, a separate motion may be made and approved to deny without prejudice based on the circumstances outlined within section 4.02.

**[18] Written decision; appeal rights.**

- a. Within 60 days from the Board action, an Action Order shall be prepared and filed with the Secretary to the Board, and a copy will be ~~served on~~ sent to the Applicant in an adjudicative matter.
- b. In an adjudicative matter, the Applicant shall have appeal rights as established by ordinance, and time limitations begin with the service of the Action Order. (Refer to Article 5 Appeals)

#### **Article 4 SPECIAL CIRCUMSTANCES**

##### **4.01 Request to Withdraw or Continue an Item**

- a. **POLICY.** An applicant has the ability to withdraw or request the continuance of an item submitted for consideration by the Board at any point prior to ~~a motion for action being made by a Member~~ action being taken by the Board.
- b. **RULE**
  - i. A request for withdrawal or continuance of the item shall be stated by either the Applicant(s), the appellant, the authorized agent with power of attorney to represent all of the interests of the property owners of record or by all of the property owners of record as attested by the signed and notarized affidavits accompanying the original application or appeal. Any Member may also request the continuance of an item.
  - ii. After a motion has been made by a Member, followed by a second on the motion and deliberation, the item cannot be withdrawn.
  - iii. If the motion is not seconded, the Applicant(s), authorized agent or property owner(s) can request the application or appeal be withdrawn prior to any new motions.
  - iv. The request for withdrawal of the item shall be clearly entered into the record, and cannot be construed as a request for deferral or continuation of the item until a future meeting. The withdrawal of an item shall terminate any further deliberation, analysis, or consideration of the originally submitted request.
  - v. A withdrawn application is not a denied application, and therefore is not subject to the "one year wait on denials" provisions of the Development Code for submitting a new development application request.

##### **4.02 Denial Without Prejudice**

- a. **RULE**
  - i. A motion to deny without prejudice (which allows a denied application to be resubmitted prior to the expiration of a required waiting period as defined in the Development Code) can be offered by any Member if the following special circumstances are supported by the public record:
    - 1) All the necessary findings for approval of the development application cannot be fully met or supported by the information presented at the time of the Board action;
    - 2) There is sufficient information to demonstrate that all the necessary findings could potentially be met within a one-year period if federal, state or local

regulatory programs are changed, or physical conditions on or near the development site change, or that infrastructure availability and capital improvement programs change to allow development as requested in the original application; and

- 3) There is sufficient information to demonstrate that the requested development application would clearly support implementation of one or more goals and policies of the Washoe County Master Plan if the findings for approval could have been made at the time of the Board's action to deny the application.
- ii. If an application is denied because a motion to approve does not receive the required number of approving votes, a subsequent motion may be made to cause the denial to be without prejudice.

## **Article 5 APPEALS TO THE BOARD**

### **5.01 Matters that may be Appealed**

Appeals shall be handled in accordance with law, including NRS Chapter 278 and the Washoe County Development Code. The following matters may be appealed to the Board (in accordance with Section 110.910.02 of the Development Code):

- a. Administrative decisions of the Building Official or the Fire Code Official made in the course of enforcing the Development Code (However, appeals related to denial for a building permit and appeals related to decisions regarding the soundness of structures are made to the Technical Review Board.);
- b. Decisions of the Technical Review Board;
- c. Decisions regarding code enforcement matters (Article 910 of the Development Code);
- d. Decisions of the Director regarding zoning or other regulations relating to the soundness of structures that cannot be otherwise appealed to an administrative hearing officer.

### **5.02 Time and Schedule**

Appeals must be made in writing to the Division within 10 calendar days from the date a decision is reduced to writing and mailed to the original Applicant and filed with the Secretary to the Board. In coordination with the Division, the Chair shall schedule a public hearing on any appeal at the next regularly scheduled meeting, or at a special meeting scheduled sooner than 60 days from the date the appeal was filed.

### **5.03 Prehearings**

- a. The Chair may require and oversee procedural matters including:
  - i. Prehearing conferences, discovery proceedings, briefing schedules and evidence assembly, and
  - ii. If allowed by law, and after consultation with the District Attorney's office, the issuance of subpoenas compelling witnesses to appear before the Board.

### **5.04 Record on Appeal, Public Hearing and Additional Evidence**

- a. The Secretary to the Board shall prepare a transcript of, or a copy of the recording of the proceeding, and make it available to the Board in advance of a scheduled appeal hearing. The Board shall review the record on appeal and all evidence, testimony, documents, information and arguments related to the decision being appealed.
- b. The Board shall allow all parties to respond and present relevant evidence and arguments on all issues being decided on appeal, including new evidence.
- c. During the public hearing, the Board shall consider relevant information including comments by members of the public.
- d. The Board may consider, upon disclosure, information and comments communicated before the public hearing.
- e. The Board may also consider maps and plans of existing conditions.

#### **5.05 Burden of Proof and Voting**

- a. Decisions of administrative officials, hearing officers and a Technical Review Board are presumed to be reasonable and lawful; it is the burden of the Appellant to persuade the Board otherwise.
- b. Voting. As stated in section 2.02 of these Rules, Policies and Procedures:
  - i. On a majority vote at a meeting , the Board may reverse, modify or remand a decision if the decision meets the findings described in Section 110.912.10(j)(7)(3) of the Development Code.
  - ii. In the absence of a majority vote at a meeting to reverse, modify, or remand, the decision being appealed stands.
- c. The Board may not award, allocate or direct any payment of money damages, attorney's fees or costs of the proceeding to any party.

#### **5.06 Decisions**

- a. The Board may continue the hearing on appeal as described in section 4.01. The Board may also require briefings or seek the opinions of legal counsel in order to render a decision on an appeal.
- b. The Board must render a written decision within 60 days after the hearing on the appeal unless otherwise agreed with the Appellant. The Chair shall sign the written decision and deliver copies to the Secretary to the Board and all parties on record.

#### **5.07 Appeals of Board Decisions**

- a. A party who is aggrieved by a decision of the Board may:
  - i. If the decision of the Board is a final decision as defined by law, seek judicial review by filing a petition in the Second Judicial District Court within 25 days of the Board making a final decision, or
  - ii. Appeal the decision to the BCC in accordance with Section 110.912.20 of the Development Code.

### **Article 6 OFFICERS OF THE BOARD**

**6.01 Titles**

The officers of the Board shall be:

- a. Chair, who shall preside at all meetings, maintain order, call special meetings, appoint committees and generally represent the Board.
- b. Vice Chair, who will perform all of the Chair's functions in the absence of the Chair.
- c. Secretary to the Board (non-voting), who shall be the Director or his/her designee, and who shall maintain the Board records; Rules, Policies and Procedures; and attachments.

**6.02 Election of Officers**

- a. The first Board meeting in August shall include on the agenda the election of officers.
- b. The Chair will take office immediately upon election and will officiate over the remainder of the elections and the meeting in progress. All other elected officers shall take office immediately upon election.

**6.03 Terms of Office**

- a. The Chair and Vice Chair of the Board shall be elected by the Members and shall each serve for one year, or until his successor is elected and takes office. The Chair and Vice Chair shall be limited to two consecutive terms per Member.
- b. In the case the Chair does not complete his/her term of office, the Vice Chair who succeeds him/her may serve as Chair for two full terms.

**6.04 Authority to Sign**

- a. The Secretary to the Board may sign such documents as may require certification on behalf of the Board. Transmittals of Board action or intent to the BCC and/or the County Clerk will generally be the responsibility of the Secretary to the Board.
- b. The Chair shall sign such documents as required by Nevada Revised Statutes or the Development Code.

**6.05 Delegation of Authority**

The Board may designate one or more Members or the Secretary to the Board to act for the Board in the conduct of hearings or the performance of its duties. The Board may also delegate to such Members, when appropriate and to the extent permitted by law, such authority as may be necessary.

**6.06 Membership on Committees**

- a. Design Review Committee. Pursuant to Development Code 110.916.10, the Design Review Committee has been created to fulfill the design review function and to recommend policy considerations to the Board.
  - i. The Board appoints one representative to the Design Review Committee. The Board may appoint a current Member, a former Member or a designee of the Board. At the designation of the Chair, an alternate representative may be designated for

the Board's appointment to the Design Review Committee. The Planning Commission Chair, who appoints the remaining members of the Design Review Committee, may seek input or consent of the Board in doing so.

- ii. Appointment of the members of the Design Review Committee shall be made at a regularly scheduled meeting of the Planning Commission and Board prior to the expiration of the terms of the current members. The appointments shall be for the term specified in the Development Code.

## **Article 7 RECORDS AND DOCUMENTS**

### **7.01 Minutes and Audio/Video Tapes**

To the extent required by law:

- a. All approved minutes, including items presented at the meetings as part of public record pertaining to the work of the Board shall be kept permanently in safe, orderly files maintained under the supervision of the Director. Said records shall be accessible to the Members of the Board and to the public as required by Nevada Revised Statutes and Washoe County's Public Records' Policies and Procedures.
- b. All audio and video recordings pertaining to the work of the Board shall be kept in a safe, orderly location maintained under the supervision of the Director. Said records shall be accessible to the Members of the Board and to the public for one year and then will be destroyed pursuant to Nevada Revised Statutes.
- c. The Director shall provide a Recording Secretary for each meeting who shall be responsible for preparing a written record of the meeting. Said minutes will bear the name of and be executed by the Recording Secretary.
- d. Copies of unapproved minutes of the past regular meeting, or meetings, shall be furnished to the Board Members in advance of a regular meeting. Upon correction and/or approval, the Secretary to the Board shall sign a master copy to be a permanent record, noting either:
  - i. Approved by Board in session on \_\_\_\_\_, or;  
*date*
  - ii Amended and approved by Board in session on \_\_\_\_\_.  
*date*
- e. Minutes of the Board's meetings shall be maintained by the Division in accordance with state public records retention rules.

### **7.02 Other Documents**

Resolutions adopted by the Board shall carry the signatures of the Chair and the Secretary to the Board. Other documents relating to matters upon which the Board has taken formal action shall be signed by the Secretary to the Board.

## **Article 8 AMENDMENT OF RULES, POLICIES AND PROCEDURES**

The Rules, Policies and Procedures may be amended or added to by a majority vote of the Members present at the meeting. The proposed amendment or addition shall be placed as an action item on the Board meeting agenda, and would become effective at

the next subsequent Board meeting.

- 1st Revision:** *March 3, 1992*
- 2nd Revision:** *March 7, 1995*
- 3rd Revision:** *May 24, 1996*
- 4th Revision:** *January 21, 1997*
- 5th Revision:** *June 15, 1999*
- 6th Revision:** *July 16, 2002*
- 7th Revision:** *May 20, 2003*
- 8th Revision:** *September 25, 2009*
- 9th Revision:** *May 20, 2010*
- 10th Revision:** *February 7, 2012*
- 11th Revision:** *February 4, 2016*

## **APPENDIX A - Ethical Principles in Planning**

American Planning Association  
(As Adopted May 1992)

This statement is a guide to ethical conduct for all who participate in the process of planning as advisors, advocates, and decision makers. It presents a set of principles to be held in common by certified planners, other practicing planners, appointed and elected officials, and others who participate in the process of planning.

The planning process exists to serve the public interest. While the public interest is a question of continuous debate, both in its general principles and in its case-by-case applications, it requires a conscientiously held view of the policies and actions that best serve the entire community.

Planning issues commonly involve a conflict of values and, often, there are large private interests at stake. These accentuate the necessity for the highest standards of fairness and honesty among all participants.

Those who practice planning need to adhere to a special set of ethical requirements that must guide all who aspire to professionalism.

The Code is formally subscribed to by each certified planner. It includes an enforcement procedure that is administered by AICP. The Code, however, provides for more than the minimum threshold of enforceable acceptability. It also sets aspirational standards that require conscious striving to attain.

The ethical principles derive both from the general values of society and from the planner's special responsibility to serve the public interest. As the basic values of society are often in competition with each other, so do these principles sometimes compete. For example, the need to provide full public information may compete with the need to respect confidences. Plans and programs often result from a balancing among divergent interests. An ethical judgment often also requires a conscientious balancing, based on the facts and context of a particular situation and on the entire set of ethical principles.

This statement also aims to inform the public generally. It is also the basis for continuing systematic discussion of the application of its principles that is itself essential behavior to give them daily meaning.

### **A. The planning process must continuously pursue and faithfully serve the public interest.**

Planning Process Participants should:

1. Recognize the rights of citizens to participate in planning decisions;
2. Strive to give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;



3. Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons;
4. Assist in the clarification of community goals, objectives and policies in plan-making;
5. Ensure that reports, records and any other non-confidential information which is, or will be, available to decision makers is made available to the public in a convenient format and sufficiently in advance of any decision;
6. Strive to protect the integrity of the natural environment and the heritage of the built environment;
7. Pay special attention to the interrelatedness of decisions and the long range consequences of present actions.

**B. Planning process participants continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.**

Planning Process Participants should:

1. Exercise fair, honest and independent judgment in their roles as decision makers and advisors;
2. Make public disclosure of all "personal interests" they may have regarding any decision to be made in the planning process in which they serve, or are requested to serve, as advisor or decision maker.
3. Define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision;
4. Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest, and leave any chamber in which such a matter is under deliberation, unless their personal interest has been made a matter of public record; their employer, if any, has given approval; and the public official, public agency or court with jurisdiction to rule on ethics matters has expressly authorized their participation;
5. Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as an advisor or decision maker in the planning process;
6. Not participate as an advisor or decision maker on any plan or project in which they have previously participated as an advocate;
7. Serve as advocates only when the client's objectives are legal and consistent with the public interest.
8. Not participate as an advocate on any aspect of a plan or program on which they have previously served as advisor or decision maker unless their role as advocate is authorized by applicable law, agency regulation, or ruling of an ethics officer or agency; such participation as an advocate should be allowed only after prior disclosure to, and approval by, their affected client or employer; under no circumstance should such participation commence earlier than one year following termination of the role as advisor or decision maker;

9. Not use confidential information acquired in the course of their duties to further a personal interest;
10. Not disclose confidential information acquired in the course of their duties except when required by law, to prevent a clear violation of law or to prevent substantial injury to third persons; provided that disclosure in the latter two situations may not be made until after verification of the facts and issues involved and consultation with other planning process participants to obtain their separate opinions;
11. Not misrepresent facts or distort information for the purpose of achieving a desired outcome;
12. Not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service;
13. Respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.

**C. APA members who are practicing planners continuously pursue improvement in their planning competence as well as in the development of peers and aspiring planners. They recognize that enhancement of planning as a profession leads to greater public respect for the planning process and thus serves the public interest.**

APA Members who are practicing planners:

1. Strive to achieve high standards of professionalism, including certification, integrity, knowledge, and professional development consistent with the AICP Code of Ethics;
2. Do not commit a deliberately wrongful act which reflects adversely on planning as a profession or seek business by stating or implying that they are prepared, willing or able to influence decisions by improper means;
3. Participate in continuing professional education;
4. Contribute time and effort to groups lacking adequate planning resources and to voluntary professional activities;
5. Accurately represent their qualifications to practice planning as well as their education and affiliations;
6. Accurately represent the qualifications, views, and findings of colleagues;
7. Treat fairly and comment responsibly on the professional views of colleagues and members of other professions;
8. Share the results of experience and research which contribute to the body of planning knowledge;
9. Examine the applicability of planning theories, methods and standards to the facts and analysis of each particular situation and do not accept the applicability of a customary solution without first establishing its appropriateness to the situation;
10. Contribute time and information to the development of students, interns, beginning practitioners and other colleagues;

11. Strive to increase the opportunities for women and members of recognized minorities to become professional planners;
12. Systematically and critically analyze ethical issues in the practice of planning.



# *Washoe County Board of Adjustment* ***DRAFT RULES, POLICIES AND PROCEDURES***

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January 8, 2016

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**Article 1 DEFINITIONS AND GENERAL POLICIES**

**1.01 Definitions**

The following words have the following meanings for purposes of these rules, policies and procedures:

- a. **Adjudicative matter** means deciding or recommending how legislative policies (such as master plans, zoning regulations and provisions in the Development Code) would apply to individual properties usually upon application by property owners. Examples of adjudicative matters include applications by landowners for special use permits, administrative permits, variances, parcel or subdivision maps, development agreements, and master plan amendments or re-zoning requests for an individual property or project.
- b. **Board** means the Washoe County Board of Adjustment.
- c. **BCC** means Washoe County Board of County Commissioners.
- d. **Division** means the Planning and Development Division of the Community Services Department.
- e. **Development Code** means the Development Code of Washoe County, WCC Chapter 110.

- f. **Director** means the chief executive or director of the Division, or his/her designee.
- g. **General Business matter** includes taking action on general business items and procedural matters such as election of officers, appointment of committees, ceremonial or administrative resolutions, and amendments to these rules.
- h. **Legislative matter** includes establishing overall land use policies or designations involving a large area consisting of multiple properties in disparate ownership, including adoption or amendment of the master plan or regulatory zoning regulations as they would generally apply to multiple properties of diverse ownership, or amendments to the Development Code. However, an application for a master plan amendment or regulatory zoning classification for the benefit of a particular property or project is considered as an adjudicative matter.

## 1.02 Board Determines Rules, Policies and Procedures

The Board, under state statute (Nevada Revised Statutes [NRS] 278.290 to 278.310 inclusive) and by Development Code (Section 110.912.10), has the responsibility for reviewing and approving variances, administrative permits and special use permits for the unincorporated portions of the County. In addition, the Board is responsible for making determinations on appeals of administrative decisions concerning zoning regulations and regulations concerning the location or soundness of structures made by County officials. In the furtherance of these responsibilities, the Board adopts the following rules, policies and procedures and from time to time may amend said rules, policies and procedures. Furthermore the Board has all the powers and duties imposed on it by law, including NRS Chapter 278 and the Washoe County Development Code. These rules have no effect to the extent of any conflict between any provisions of these rules and any applicable constitutional provisions, statutes, or county code provisions.

## 1.03 Duties and Responsibilities

- a. POLICY
  - i Members of the Board shall keep themselves informed on planning laws, policies, procedures and trends in planning practice, and ethics laws of Nevada.
  - ii The five Board Members shall represent the best interests of unincorporated Washoe County.
  - iii Members shall endeavor to provide questions on agenda items to the Planning Managers or staff of the Division a minimum of 24 hours prior to the meeting on which the agenda item is scheduled.
- b. RULE
  - i Members shall be prompt and diligent in attendance.
  - ii Failure of a Member to attend three successive regular meetings, or miss more than 25% of scheduled meetings annually, will be reported to the BCC and said absences may be considered justifiable cause for replacement.

## 1.04 Communications Outside of Public Hearings or Meetings

- a. POLICY. General: Except for legislative and general business matters, Members should

avoid ex parte communications (i.e., private communications outside a public meeting with interested parties) regarding matters coming before the Board. Parties should be encouraged to discuss their comments with staff or at the public hearing rather than privately with individual Members.

- ~~i. Legislative and General Business matters. With respect to such actions:
  - ~~a) When being approached or when discussing such matters, there are no policy or legal restrictions, or disclosure requirements. Members are urged to be discreet and not form or communicate any prehearing bias.~~
  - ~~b) Members are authorized and encouraged in NRS 278.190 to promote public interest in land use plans and policies. Such encouragement includes consulting with public officials and agencies; with public utility companies, civic, educational, professional and other organizations; and, with citizens generally in relation to the carrying out of such legislative and policy matters.~~~~
- ~~ii. Adjudicative matters. With respect to such actions:
  - ~~a) Members should avoid ex parte communications with parties who have an interest in the matter.~~
  - ~~b) Unsolicited correspondence, emails or phone messages should be preserved so they may be put in the record.~~
  - ~~c) Members must disclose all ex parte communications. If during any such contacts, a Member obtains information that he/she might consider as important when deciding an adjudicative matter, the Member must assure that the information is:
    - ~~• already public knowledge;~~
    - ~~• has been included in the reports or presentations; or,~~
    - ~~• is disclosed or otherwise brought out at the public hearing so that interested parties may have an opportunity to comment on it.~~~~
  - ~~d) Members must keep an open mind and not form or communicate any preferences or thoughts that may be perceived as prehearing bias.~~~~
- ~~iii. Site Visits. Site visits may be important to gain a better understanding of the proposed actions and their impact on surrounding lands. Members may view sites from public roadways to gain understanding, however, site visits are subject to any applicable legal restrictions on the entry of land, and site visits must be pursuant to any required authorization of the owner(s) of the land being visited.
  - ~~a) Ex parte contact may be unavoidable during site visits and should be limited to the extent practicable. If ex parte contact occurs, it must be disclosed as provided above. It is advisable to have a staff member or another person participate in the site visit and any discussions at the site.~~
  - ~~b) Members must disclose that they conducted a site visit and do not need to describe what they saw if it is in plain public view. Any information gained during a site visit that is significant in forming a conclusion must be disclosed at the public hearing, if the information has not otherwise been disclosed in the reports and presentations.~~~~
- ~~iv. Attorney Communications. Communications with the attorney assigned by the District Attorney's Office or any other attorney appointed or retained to represent or advise the Board are confidential and privileged attorney-client communications and are not subject to disclosure.~~

b. RULE

- ~~i. Ex parte contact with respect to legislative and general business matters need not be disclosed and does not disqualify a contacted Member from discussion and voting on the item under consideration by the Board. Ex parte contact with respect to an adjudicative matter does not disqualify a Member from voting on the matter if disclosure is made and that information derived from the contact(s) that is being considered by the Member is either public knowledge, has been included in the reports or presentations, or is otherwise brought out at the public hearing so that interested parties may have an opportunity to comment on it.~~
- ii. Members shall not solicit, offer or accept any offer for any business relationship or arrangement with any interested party. Any preexisting, ongoing or expected business relationship with any interested party must be disclosed and may be grounds for abstention under NRS Chapter 281A.

**1.05 Ethical Principles for Planning; Disclosures and Abstentions**

a. POLICY

- i The Board is governed by Nevada's ethics laws, including NRS Chapter 281A. The Board may also use the American Planning Association's *Ethical Principles in Planning (Appendix A)* as guiding principles for the conduct of Board Members.

~~b. RULE~~

- ~~i. Potential Conflicts of Interest. In connection with matters coming before the Board, NRS 281A.420 discusses three circumstances where disclosure and abstention may be required. These three circumstances include when a Member:~~

- ~~• has accepted a gift or loan,~~
- ~~• has a significant pecuniary interest, or~~
- ~~• would reasonably be affected by the Member's commitment in a private capacity to the interests of another person in connection with the matter.~~

~~In any of those circumstances, the Member should check current statutes and rulings of the Nevada Commission on Ethics to determine what disclosures should be made and when abstention is warranted. If disclosure is required, it should be made before the matter is discussed by the Board, and at that time the Member must also discuss whether or not he/she is abstaining, and why. If abstaining, it is not necessary to leave the room during deliberation and vote, but the Member should leave his/her seat on the Board until after the vote.~~

- ~~a) If a Member has an ownership interest in property or a project being considered individually for a special use permit, variance or appeal of administrative decision, the Member must abstain but may address the Board to discuss facts about the property, the project or the proceeding but must not ask, advocate or give any reasons for or against a vote.~~

- ~~b) If a Member has an ownership interest in land or a project that is being considered with other parcels of land for a special use permit, variance or appeal of administrative decision and shares benefit or detriment no greater than other owners of properties also being considered, while disclosure is necessary, abstention is not required unless otherwise indicated by the Nevada Commission on Ethics rulings.~~



## Article 2 QUORUM AND VOTING

### 2.01 Number of Members Required to Conduct Business

- a. For general matters of business a quorum of the Board shall be a simple majority of the Board, three Members.
- b. For a matter requiring a majority vote of the full membership as required by state statute the following rules apply:
  - i. Full membership means the number of Members appointed and serving on the Board. An unfilled vacancy does not count as part of the total membership. For example, if four Members are appointed and serving on the Board, not less than three Members must be in attendance and vote to approve the action on said motion. The term "in attendance" means physically present at the meeting or attending the meeting through a telephone or video conference.
  - ii. In the event that the minimum required Members of the Board are not present, the item shall be scheduled for the next appropriate regular meeting.

### 2.02 Voting

- a. ~~An~~Unless otherwise required by law, an affirmative vote by a majority of the Members present at a meeting is required to approve all matters. An affirmative majority vote of the Board at a meeting is required to reverse, modify or remand a decision being appealed. In the absence of an affirmative vote by a majority of the Board at a meeting to reverse, modify, or remand a decision being appealed, the decision being appealed stands.
- b. ~~The Chair shall be a voting Member.~~
- c. ~~The Chair may call for, or a Member may request, a roll call vote on any issue.~~
- d. ~~An abstention shall be a non-considered vote.~~
  - i. ~~If a Member abstains under NRS 281A.420(5), the necessary quorum and the number of votes necessary to act upon the matter are reduced as though the Member abstaining was not a Member of the Board.~~
  - ii. ~~If a Member abstains for any other reason, the necessary quorum or number of votes necessary for action is not reduced.~~
- eb. A tie vote means the motion does not pass. ~~If, however, one or more Members are absent or abstain from the vote and a tie vote occurs, any Member, and/or the applicant in an adjudicative matter, may ask for and shall be granted a continuance to the next meeting of the Board.~~

### 2.03 ~~Motions to Reconsider~~

~~A motion to reconsider any action taken by the Board may be made only during the meeting at which the action was taken or at the next regularly scheduled meeting. A motion to reconsider must be made by a Member who voted on the prevailing side of the motion being reconsidered, but a motion to reconsider may be seconded by any Member. A previous motion failing by virtue of a tie vote may be reconsidered upon motion of any Member. If a motion for reconsideration relates to an item requiring legal~~

~~notice, only the motion itself shall be debated and, if passed, reconsideration of the item continued to a future date to allow for the provision of legal notice.~~

### **Article 3 MEETINGS**

#### **3.01 Notice and Agenda**

- a. The Board is a public body and must comply with the laws of Nevada regarding public and open meetings, including NRS Chapter 241 (open meeting law). ~~Written notice of all meetings will be given in the time and manner specified in the open meeting law. In addition to disclosures required by the open meeting law, the notice and agenda may refer to, describe or implement these rules, including but not limited to, statements about public comment time limits, meeting decorum, hearing procedures, Member and participant conduct, voting procedures and appeals.~~
- b. Robert's Rules of Order, as amended, may be used for guidance for Board meeting procedures when a question or controversy arises. Alternatively, the Chair may employ other procedures or techniques in an effort to provide for deliberation, an opportunity for the public and Members to be heard and for the Board to reach a consensus and/or decision.
- c. In order to maximize public participation in a meeting, Board meetings should not extend beyond 6:00 p.m. and the Chair is authorized to continue items that would start after that time.

#### **3.02 Regular Meetings**

- a. The Board may hold at least one regular meeting each month, but may meet less frequently if the Board decides. ~~The Board may also schedule special meetings as warranted, including prehearing conferences, discovery proceedings and appeals.~~
- b. The first Thursday of every even-numbered month is the regular meeting day.
  - i. Should the first Thursday of the month fall on a holiday, or interfere with a special event using the meeting facilities of the County complex, the meeting shall be held on an alternate date and/or at an alternate meeting facility as determined by the Chair or Acting Chair.
- c. Order of Business. Regular meetings shall be conducted in the following order: Asterisks (\*) are used to denote non-action items. Agenda headings will be modified to correctly indicate whether or not an item is an action (no asterisk) or a non-action action (\*).
  1. \*Determination of a Quorum
  2. \*Pledge of Allegiance
  3. \*Ethics Law Announcement
  4. \*Appeal Procedure
  5. \*General Public Comment
  6. Approval of Agenda
  7. Approval of Minutes
  8. Consent Items

9. Public Hearings
10. Planning Items
11. Chair and Board Items
12. Director's and Legal Counsel's Items
13. \* General Public Comment
14. Adjournment

### **3.03 Special Meetings**

- a. Special meetings may be held, as required, upon call of the Chair or Acting Chair, or upon the call of not less than three Board Members.

### **3.04 Emergencies**

- ~~a. Subject to compliance with the open meeting law, an emergency meeting may be called or an emergency item may be added to any regular or special meeting when unforeseen circumstances require action and include, but are not limited to:
  - i. Disasters caused by fire, flood, earthquake or other natural causes; or,
  - ii. Any impairment of the health and safety of the public.~~
- ~~b. Before proceeding with any emergency meeting or considering any emergency item, the Board must, by the affirmative vote of a majority of the Members present, find that an emergency exists and specify the reasons after receiving advice from the Board's legal counsel.~~

### **3.05 Continued Items**

- a. The Board may vote to grant a continuance on an agendized item upon request of a Member, the Applicant or the Applicant's Representative. If the Board decides to continue an item, the Chair shall first ask if anyone in the audience wishes to testify on the matter even though it may be continued to another date, time and location certain.
- ~~b. Should an item appearing on an agenda be continued to another specified place, date and time, and a Board Member is absent from the first meeting but present for the next meeting for which the item is scheduled, the absent Board Member shall endeavor to learn what occurred during the first hearing through review of the minutes and recorded media, and shall declare at the next meeting that he/she has familiarized themselves regarding the case and is prepared to discuss, deliberate and vote on the matter.~~

### **3.06 General Expectations of Members During Meetings**

- a. Members shall treat each other and all persons at a meeting with respect before, during and after the meeting. The decorum rules stated below apply to Members as well as members of the public.
- ~~b. Members shall be attentive to the proceedings and give their undivided attention to speakers. Engaging in private conversations, performing tasks not associated with the meeting and displaying obvious boredom are disruptive to the meeting process.~~

- ~~c. Members shall endeavor to address questions of audience members through the Chair.~~
- ~~d. Members should be neutral in their response to speaker's opinions through their questions, comments and body language and should not express an opinion on the agenda item before all public testimony has been provided, although the expression of opinions during public testimony may be appropriate during legislative or general business matters.~~
- ~~e. Members shall be prepared for each item that is listed on the agenda.~~

### **3.07 Meeting Decorum; Removal for Disruptive Conduct**

- a. Meetings of the Board are limited forums for the governmental purpose of making planning decisions for the community in accordance with its duties under state and local law. That governmental purpose is efficiently accomplished only when the process established by law is followed and all participants in a meeting conduct themselves within the limits established and with decorum, civic responsibility and mutual respect.
- b. It is the intent of the Board to maintain the highest level of decorum. The Chair is authorized to take appropriate actions to maintain such decorum to include declaring recesses, admonishing speakers and other remedies set forth below.
- c. The viewpoint of any speaker will not be restricted, but reasonable restrictions may be imposed upon the time, place and manner of speech at the meeting. Unless otherwise required by law, remarks which are irrelevant, impertinent, unduly repetitious, or which contain personal attacks, implied or actual threats, fighting words or profanity are not consistent with efficiently accomplishing the governmental purpose.
- d. The Chair may remove (with or without warning) any person who willfully makes the kind of remarks described above or engages in other disorderly conduct, if such remarks or conduct makes the orderly conduct of the meeting impractical. Removal for disruptive conduct will be for the remainder of the meeting. If the Chair removes a Member for disruptive conduct, the removal may be only for the agenda item being considered when the disruption occurred.

### **3.08 Addressing the Board; Participant Conduct**

- ~~a. **General Public Comment Period.** The following rules apply during the designated "general public comment" period(s) of any meeting where members of the public are permitted to speak on any matter on or off the agenda (as opposed to comments made during planning items or public hearings on specific agenda items):~~
  - ~~i. Unless otherwise specified on the agenda, any person may speak regarding any topic, on or off the agenda. The Chair may remove any person for willful disruptive conduct as described in section 3.07.~~
  - ~~ii. No action may be taken on any subject brought up during a general public comment period until properly agendized and called up for consideration and possible action. [See NRS 241.020(2)(a)(3)]~~
  - ~~iii. Unless a different time is established by the Chair at the opening of general public comment, time limits for speaking will be three minutes per person. Should the Chair establish a different time limit for speaking, the different time limit will apply to both general public comment periods on the meeting's agenda. Speakers may not reserve time or give time to others. Members may ask questions of the speakers after the speaker's time limit has been reached.~~

- ~~iv. Individual speaker times may be adjusted by the Chair to accommodate questions by Members.~~
- ~~v. Speakers must complete and submit to the Recording Secretary a "Request to Speak" form, and must identify themselves at the beginning of their presentation.~~
- ~~b. Planning Items or Public Hearings on individual Agenda Items. The following rules apply to persons speaking during planning items or public hearings on individual agenda items (as opposed to speaking during general public comment periods):~~
  - ~~i. Receiving public input during individual agenda items are part of a governmental planning process and, in order to efficiently pursue that process, persons addressing the Board during such items are to speak only to the topic being considered. Irrelevant or overly repetitions comments by the same person delays and disrupts the process. The Chair may remove any person for willful disruptive conduct as described in section 3.07.~~
  - ~~ii. Speakers must sign and deliver to the Recording Secretary a "Request to Speak" form.~~
  - ~~iii. Except as otherwise provided in these Rules or otherwise modified by the Chair or Board, speakers shall limit their presentation times to three minutes for individual speakers. If a speaker represents an organization, he/she may be given five minutes to speak, but only one person from the organization will be given this extra time. No speaker may reserve or transfer his/her time to another speaker. The Chair may adjust individual speaker time limits to accommodate questions by Members.~~
  - ~~iv. Applicants and amicus organizations. The applicant or his/her representative or a person representing an amicus group (a group with special knowledge or interest in the agenda item who desires to testify as a friend of the Board) may notify Division staff prior to the start of a noticed meeting that a longer time is requested to make a presentation. When making the notification, an approximate amount of time needed to make the presentation must be provided. The Division will notify the Chair, who has the discretion to grant, modify or deny such a request at the beginning of the agenda item.~~
  - ~~v. Speakers are encouraged to acknowledge support of a previous speaker's comments and discouraged from repeating the same point in order that the meeting may be efficiently conducted.~~
  - ~~vi. Audience members are encouraged not to visibly display support or opposition (such as clapping, whistling, etc.) to a speaker's points or Board actions in a manner that disrupts the orderly conduct of the meeting. To the extent such actions make the orderly progress of the meeting impractical, the Chair may order such conduct as disruptive and remove offenders (as described in section 3.07).~~

### **3.09 Procedures for Individual Agenda Items**

- ~~a. General Principles. These rules are intended to promote consistency, efficiency, and fairness and to maximize public input in the conduct of meetings of the Board. These rules apply to all proceedings before the Board.~~
- ~~b. Consent Agenda.~~
  - ~~i. The consent agenda may be used for matters which need not be individually discussed and acted on and may be more efficiently handled on a block vote.~~

~~Examples of items typically handled on the consent agenda are acceptance of dedications and approval of property abandonments which are requested by or for the benefit of the County.~~

- ~~ii. Items which require a public hearing shall not be placed on the consent agenda.~~
- ~~iii. When announcing the consent agenda, the Chair shall ask for and allow public comments on any item. Any Member may ask for removal of an item from the consent agenda and it shall be removed and handled as a general business item under Rule C(7)(c). Otherwise, consent agenda items may be voted on as a block.~~

~~cb. Step by Step Procedures for individual agenda items (except as specifically required by law, these steps are meant as a procedural guideline and rigid adherence may be dispensed with, formally or informally, as deemed appropriate by the Chair during a meeting).~~

- ~~[1] — **Chair calls on staff to introduce the item.** This is only an introduction identifying the parties and the general nature of the proceeding.~~
- ~~[2] — **Jurisdictional/procedural issues.** For items requiring special notice, Chair asks if all notices required by law have been given and if staff has proof of publication and service where required.~~
- ~~[3] — **Disclosures by Board Members.** Chair asks for any disclosures and abstentions required by NRS 281A.420 (*Ethics in Government*) and/or any disclosures under Board Rules regarding ex parte contacts with the Applicant or any interested party.~~
- ~~[4] — **Chair advises audience of general hearing procedures.** If the item has been described as a public hearing item, the Chair will explain the process and rules to be followed. Public hearing or not, the Chair shall advise that this is an action item under the open meeting law and that public comment shall be heard before the Board deliberates toward a decision.~~
- ~~[5] — **Chair may canvass the audience** to determine who is present to hear or speak on the agenda item, who is for or against approval of the item or to obtain other information useful in managing the hearing and meeting.~~
- ~~[6] — **Chair opens the public hearing** for presentations and public comment.~~
- ~~[7] — **Staff presentation.**~~
  - ~~a. Staff will be given 15 minutes to present and discuss the item. Members may ask questions. The time limit may be adjusted by the Chair to accommodate questions by Members, or if the Chair believes that extra time is essential to a complete presentation of probative and non-repetitive information.~~
- ~~[8] — **Applicant presentation and rebuttals.**~~
  - ~~a. For adjudicative matters or other matters initiated by an application from someone other than the Division, the Applicant will be given 15 minutes to present and discuss the item. The Applicant may be represented by counsel or any other person or persons. Members may ask questions.~~
  - ~~b. The time limit may be adjusted by the Chair to accommodate questions by Members, or if the Chair believes that extra time is essential to a complete presentation of probative and non-repetitive information.~~
  - ~~c. For adjudicative matters, staff will be offered five minutes of rebuttal time following the Applicant's presentation, and the Applicant will be offered five minutes of rebuttal time following staff's rebuttal. The time limits may be adjusted by the Chair~~

~~to accommodate questions by Members, or if the Chair believes that extra time is essential to a complete presentation of probative and non-repetitive information.~~

**[9] — Public comment and rebuttal to public comment in adjudicative matters.**

- ~~a. Following presentations, the Chair will call for public comment in accordance with section 3.08.~~
- ~~b. In adjudicative matters, staff and the Applicant shall be given a reasonable opportunity to comment on any public testimony heard by the Board. The Chair shall decide what is reasonable, and is not required to afford equal time to the Applicant for each public testimony.~~

**[10] — Board questions.** Board Members may ask questions of staff, the Applicant or members of the audience. At the discretion of the Chair, a member of the public who previously testified, or staff may be asked to comment on any materials or information presented during the public hearing.

**[11] — Documents and evidence.**

- ~~a. The staff report and all of its exhibits, and all documents offered by any presenter or speaker, shall be kept with the minutes and are public records.~~
- ~~b. Any party, presenter or speaker may offer additional evidence if it is relevant to the proceeding. If a person wants to present documentary evidence to the Board, ten copies shall be prepared and delivered to the Recording Secretary for distribution to the Board.~~
- ~~c. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted by the Chair. In adjudicative matters, the parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection.~~
- ~~d. Irrelevant, immaterial or unduly repetitious evidence may be excluded by the Chair. The Board shall observe rules of privilege recognized by law. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the specialized knowledge of the Board.~~

**[12] — Questions of presenters, parties and speakers.**

- ~~a. Questions to presenters, speakers or the public must be made through or with the permission of the Chair.~~
- ~~b. In adjudicative matters, if staff or the Applicant needs to ask questions of the parties or members of the audience, the Chair may ask the person to come forward and answer questions posed by the Chair.~~
- ~~c. Except when compelling witnesses to appear before the Board as part of an appeal, the Board does not have subpoena power and witnesses may not be compelled to speak or be examined or cross-examined in a trial like manner.~~

**[13] — Chair closes public hearing.** When presentations and public comment have been completed, the Chair may close the public hearing. However, the Chair may reopen public hearing at any time to receive new evidence or comments.

**[14] — Discussion and additional fact finding.**

- ~~a. The Chair may call for discussion or a motion.~~

- ~~b. At any time during discussion or deliberation on a motion, the Chair may call (without reopening the public hearing) persons forward to answer questions or present information.~~
- ~~c. The Chair may also reopen the public hearing to hear public comment.~~

**[15] Motions.**

- a. Motions must be seconded before acceptance or debate. If a motion is not seconded, it is considered moot and the Chair may call for further discussion or a new motion. Unless otherwise directed by the Chair, motions may be made and voted upon in accordance with Robert's Rules of Order.
- ~~b. Motions must incorporate all findings of fact required by law.~~
- ~~c. In adjudicative matters, the motion should be to do any one or combination of the following:
  - ~~i. Approve the application with or without conditions.~~
  - ~~ii. Add, remove or adjust individual conditions from the original motion by a motion to amend, which shall be voted upon before the original motion is taken up for a vote.~~
  - ~~iii. Remand the application back to the Division for further review and/or action. The remand must give reasons for the remand, including instructions on actions to be taken by the Director or Division, and should include a suitable time frame for the action. The Board may also provide that the actions taken on remand may be appealed back to the Board.~~
  - ~~iv. Deny the application with or without prejudice. See section 4.02.~~~~

**[16] Deliberation on motion.**

- ~~a. During deliberation on motions, Board Members are encouraged to discuss their views of the evidence and why they are going to vote for or against the motion.~~
- ~~b. If findings of fact are required for approval of an item, Members are encouraged to individually discuss proposed findings. At a minimum, each Member shall discuss any findings that he/she cannot agree with.~~
- ~~c. In adjudicative matters, the Board may continue or postpone a decision on the matter for up to 60 days after the hearing, but a motion to postpone or continue shall specify a date and the conditions under which the matter will be brought up for a decision.~~

**[172] Vote.**

- a. The Chair shall call for a vote, and shall announce the results of the vote indicating by name who voted in favor or and who voted against the motion, and any abstentions, which shall be recorded in the minutes.
- b. If no motion is made, if a motion to deny is passed, or if a motion to approve an adjudicative matter does not receive the required number of affirmative votes, it is deemed denied with prejudice. However, a separate motion may be made and approved to deny without prejudice based on the circumstances outlined within section 4.02.

**[183] Written decision; appeal rights.**



- a. Within 60 days from the Board action, an Action Order shall be prepared and filed with the Secretary to the Board, and a copy will be served on sent to the Applicant in an adjudicative matter.
- ~~b. In an adjudicative matter, the Applicant shall have appeal rights as established by ordinance, and time limitations begin with the service of the Action Order. (Refer to Article 5 Appeals)~~

## Article 4 SPECIAL CIRCUMSTANCES

### 4.01 Request to Withdraw or Continue an Item

- a. POLICY. An applicant has the ability to withdraw or request the continuance of an item submitted for consideration by the Board at any point prior to ~~a motion for action being made by a Member~~ action being taken by the Board.
- ~~b. RULE~~
  - ~~i. A request for withdrawal or continuance of the item shall be stated by either the Applicant(s), the appellant, the authorized agent with power of attorney to represent all of the interests of the property owners of record or by all of the property owners of record as attested by the signed and notarized affidavits accompanying the original application or appeal. Any Member may also request the continuance of an item.~~
  - ~~ii. After a motion has been made by a Member, followed by a second on the motion and deliberation, the item cannot be withdrawn.~~
  - ~~iii. If the motion is not seconded, the Applicant(s), authorized agent or property owner(s) can request the application or appeal be withdrawn prior to any new motions.~~
  - ~~iv. The request for withdrawal of the item shall be clearly entered into the record, and cannot be construed as a request for deferral or continuation of the item until a future meeting. The withdrawal of an item shall terminate any further deliberation, analysis, or consideration of the originally submitted request.~~
  - ~~vi. A withdrawn application is not a denied application, and therefore is not subject to the "one year wait on denials" provisions of the Development Code for submitting a new development application request.~~

### 4.02 Denial Without Prejudice

- a. RULE
  - i. A motion to deny without prejudice (which allows a denied application to be resubmitted prior to the expiration of a required waiting period as defined in the Development Code) can be offered by any Member ~~if the following special circumstances are supported by the public record:~~
    - ~~1) All the necessary findings for approval of the development application cannot be fully met or supported by the information presented at the time of the Board action;~~
    - ~~2) There is sufficient information to demonstrate that all the necessary findings could potentially be met within a one-year period if federal, state or local regulatory programs are changed, or physical conditions on or near the development site~~

~~change, or that infrastructure availability and capital improvement programs change to allow development as requested in the original application; and~~

- ~~3) There is sufficient information to demonstrate that the requested development application would clearly support implementation of one or more goals and policies of the Washoe County Master Plan if the findings for approval could have been made at the time of the Board's action to deny the application.~~
- ~~ii. If an application is denied because a motion to approve does not receive the required number of approving votes, a subsequent motion may be made to cause the denial to be without prejudice.~~

## **Article 5 APPEALS TO THE BOARD**

### **5.01 Matters that may be Appealed**

Appeals shall be handled in accordance with law, including NRS Chapter 278 and the Washoe County Development Code. ~~The following matters may be appealed to the Board (in accordance with Section 110.910.02 of the Development Code):~~

~~Administrative decisions of the Building Official or the Fire Code Official made in the course of enforcing the Development Code (However, appeals related to denial for a building permit and appeals related to decisions regarding the soundness of structures are made to the Technical Review Board.);~~

~~Decisions of the Technical Review Board;~~

~~Decisions regarding code enforcement matters (Article 910 of the Development Code);~~

~~Decisions of the Director regarding zoning or other regulations relating to the soundness of structures that cannot be otherwise appealed to an administrative hearing officer.~~

### **5.02 Time and Schedule**

~~Appeals must be made in writing to the Division within 10 calendar days from the date a decision is reduced to writing and mailed to the original Applicant and filed with the Secretary to the Board. In coordination with the Division, the Chair shall schedule a public hearing on any appeal at the next regularly scheduled meeting, or at a special meeting scheduled sooner than 60 days from the date the appeal was filed.~~

### **5.03 Prehearings**

~~The Chair may require and oversee procedural matters including:~~

~~Prehearing conferences, discovery proceedings, briefing schedules and evidence assembly, and~~

~~If allowed by law, the issuance of subpoenas compelling witnesses to appear before the Board.~~

### **5.04 Record on Appeal, Public Hearing and Additional Evidence**

~~The Secretary to the Board shall prepare a transcript of, or a copy of the recording of the proceeding, and make it available to the Board in advance of a scheduled appeal hearing. The Board shall review the record on appeal and all evidence, testimony, documents, information and arguments related to the decision being appealed.~~

~~The Board shall allow all parties to respond and present relevant evidence and arguments on all issues being decided on appeal, including new evidence.~~

~~During the public hearing, the Board shall consider relevant information including comments by members of the public.~~

~~The Board may consider, upon disclosure, information and comments communicated before the public hearing.~~

~~The Board may also consider maps and plans of existing conditions.~~

### **5.05 — Burden of Proof and Voting**

~~Decisions of administrative officials, hearing officers and a Technical Review Board are presumed to be reasonable and lawful; it is the burden of the Appellant to persuade the Board otherwise.~~

~~Voting. As stated in section 2.02 of these Rules, Policies and Procedures:~~

~~On a majority vote at a meeting, the Board may reverse, modify or remand a decision if the decision meets the findings described in Section 110.912.10(j)(7)(3) of the Development Code.~~

~~In the absence of a majority vote at a meeting to reverse, modify, or remand, the decision being appealed stands.~~

~~The Board may not award, allocate or direct any payment of money damages, attorney's fees or costs of the proceeding to any party.~~

### **5.06 — Decisions**

~~The Board may continue the hearing on appeal as described in section 4.01. The Board may also require briefings or seek the opinions of legal counsel in order to render a decision on an appeal.~~

~~The Board must render a written decision within 60 days after the hearing on the appeal unless otherwise agreed with the Appellant. The Chair shall sign the written decision and deliver copies to the Secretary to the Board and all parties on record.~~

### **5.07 — Appeals of Board Decisions**

~~A party who is aggrieved by a decision of the Board may:~~

~~If the decision of the Board is a final decision as defined by law, seek judicial review by filing a petition in the Second Judicial District Court within 25 days of the Board making a final decision, or~~

~~Appeal the decision to the BCC in accordance with Section 110.912.20 of the Development Code.~~

## **Article 6 OFFICERS OF THE BOARD**

### **6.01 Titles**

The officers of the Board shall be:

- a. Chair, who shall preside at all meetings, maintain order, call special meetings, appoint committees and generally represent the Board.
- b. Vice Chair, who will perform all of the Chair's functions in the absence of the Chair.
- c. Secretary to the Board (non-voting), who shall be the Director or his/her designee, and who shall maintain the Board records; Rules, Policies and Procedures; and attachments.

### **6.02 Election of Officers**

- a. The first Board meeting in August shall include on the agenda the election of officers.
- b. The Chair will take office immediately upon election and will officiate over the remainder of the elections and the meeting in progress. All other elected officers shall take office immediately upon election.

### **6.03 Terms of Office**

- a. The Chair and Vice Chair of the Board shall be elected by the Members and shall each serve for one year, or until his successor is elected and takes office. The Chair and Vice Chair shall be limited to two consecutive terms per Member.
- b. In the case the Chair does not complete his/her term of office, the Vice Chair who succeeds him/her may serve as Chair for two full terms.

### **6.04 Authority to Sign**

- a. The Secretary to the Board may sign such documents as may require certification on behalf of the Board. Transmittals of Board action or intent to the BCC and/or the County Clerk will generally be the responsibility of the Secretary to the Board.
- b. The Chair shall sign such documents as required by Nevada Revised Statutes or the Development Code.

### **6.05 Delegation of Authority**

The Board may designate one or more Members or the Secretary to the Board to act for the Board in the conduct of hearings or the performance of its duties. The Board may also delegate to such Members, when appropriate and to the extent permitted by law, such authority as may be necessary.

### ~~**6.06 Membership on Committees**~~

- ~~a. Design Review Committee. Pursuant to Development Code 110.916.10, the Design Review Committee has been created to fulfill the design review function and to~~

~~recommend policy considerations to the Board.~~

- ~~i. The Board appoints one representative to the Design Review Committee. The Board may appoint a current Member, a former Member or a designee of the Board. At the designation of the Chair, an alternate representative may be designated for the Board's appointment to the Design Review Committee. The Planning Commission Chair, who appoints the remaining members of the Design Review Committee, may seek input or consent of the Board in doing so.~~
- ~~ii. Appointment of the members of the Design Review Committee shall be made at a regularly scheduled meeting of the Planning Commission and Board prior to the expiration of the terms of the current members. The appointments shall be for the term specified in the Development Code.~~

~~**Article 7 RECORDS AND DOCUMENTS**~~

~~**7.01 Minutes and Audio/Video Tapes**~~

~~To the extent required by law:~~

- ~~a. All approved minutes, including items presented at the meetings as part of public record pertaining to the work of the Board shall be kept permanently in safe, orderly files maintained under the supervision of the Director. Said records shall be accessible to the Members of the Board and to the public as required by Nevada Revised Statutes and Washoe County's Public Records' Policies and Procedures.~~
- ~~b. All audio and video recordings pertaining to the work of the Board shall be kept in a safe, orderly location maintained under the supervision of the Director. Said records shall be accessible to the Members of the Board and to the public for one year and then will be destroyed pursuant to Nevada Revised Statutes.~~
- ~~c. The Director shall provide a Recording Secretary for each meeting who shall be responsible for preparing a written record of the meeting. Said minutes will bear the name of and be executed by the Recording Secretary.~~
- ~~d. Copies of unapproved minutes of the past regular meeting, or meetings, shall be furnished to the Board Members in advance of a regular meeting. Upon correction and/or approval, the Secretary to the Board shall sign a master copy to be a permanent record, noting either:
 
  - ~~i. Approved by Board in session on \_\_\_\_\_, or;~~  
~~\_\_\_\_\_ date~~
  - ~~ii Amended and approved by Board in session on \_\_\_\_\_;~~  
~~\_\_\_\_\_ date~~~~
- ~~e. Minutes of the Board's meetings shall be maintained by the Division in accordance with state public records retention rules.~~

~~**7.02 Other Documents**~~

~~Resolutions adopted by the Board shall carry the signatures of the Chair and the Secretary to the Board. Other documents relating to matters upon which the Board has taken formal action shall be signed by the Secretary to the Board.~~

~~**Article 87 AMENDMENT OF RULES, POLICIES AND PROCEDURES**~~

The Rules, Policies and Procedures may be amended or added to by a majority vote of the Members present at the meeting. The proposed amendment or addition shall be placed as an action item on the Board meeting agenda, and would become effective at the next subsequent Board meeting.

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## **APPENDIX A - Ethical Principles in Planning**

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This statement is a guide to ethical conduct for all who participate in the process of planning as advisors, advocates, and decision makers. It presents a set of principles to be held in common by certified planners, other practicing planners, appointed and elected officials, and others who participate in the process of planning.

The planning process exists to serve the public interest. While the public interest is a question of continuous debate, both in its general principles and in its case-by-case applications, it requires a conscientiously held view of the policies and actions that best serve the entire community.

Planning issues commonly involve a conflict of values and, often, there are large private interests at stake. These accentuate the necessity for the highest standards of fairness and honesty among all participants.

Those who practice planning need to adhere to a special set of ethical requirements that must guide all who aspire to professionalism.

The Code is formally subscribed to by each certified planner. It includes an enforcement procedure that is administered by AICP. The Code, however, provides for more than the minimum threshold of enforceable acceptability. It also sets aspirational standards that require conscious striving to attain.

The ethical principles derive both from the general values of society and from the planner's special responsibility to serve the public interest. As the basic values of society are often in competition with each other, so do these principles sometimes compete. For example, the need to provide full public information may compete with the need to respect confidences. Plans and programs often result from a balancing among divergent interests. An ethical judgment often also requires a conscientious balancing, based on the facts and context of a particular situation and on the entire set of ethical principles.

This statement also aims to inform the public generally. It is also the basis for continuing systematic discussion of the application of its principles that is itself essential behavior to give them daily meaning.

### **A. The planning process must continuously pursue and faithfully serve the public interest.**

Planning Process Participants should:

1. Recognize the rights of citizens to participate in planning decisions;
2. Strive to give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;

3. Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons;
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**B. Planning process participants continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.**

Planning Process Participants should:

1. Exercise fair, honest and independent judgment in their roles as decision makers and advisors;
2. Make public disclosure of all "personal interests" they may have regarding any decision to be made in the planning process in which they serve, or are requested to serve, as advisor or decision maker.
3. Define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision;
4. Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest, and leave any chamber in which such a matter is under deliberation, unless their personal interest has been made a matter of public record; their employer, if any, has given approval; and the public official, public agency or court with jurisdiction to rule on ethics matters has expressly authorized their participation;
5. Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as an advisor or decision maker in the planning process;
6. Not participate as an advisor or decision maker on any plan or project in which they have previously participated as an advocate;
7. Serve as advocates only when the client's objectives are legal and consistent with the public interest.
8. Not participate as an advocate on any aspect of a plan or program on which they have previously served as advisor or decision maker unless their role as advocate is authorized by applicable law, agency regulation, or ruling of an ethics officer or agency; such participation as an advocate should be allowed only after prior disclosure to, and approval by, their affected client or employer; under no circumstance should such participation commence earlier than one year following termination of the role as advisor or decision maker;



9. Not use confidential information acquired in the course of their duties to further a personal interest;
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# *Washoe County Board of Adjustment* ***DRAFT RULES, POLICIES AND PROCEDURES***

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January 8, 2016

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**Article 1 DEFINITIONS AND GENERAL POLICIES**

**1.01 Definitions**

The following words have the following meanings for purposes of these rules, policies and procedures:

- a. **Adjudicative matter** means deciding or recommending how legislative policies (such as master plans, zoning regulations and provisions in the Development Code) would apply to individual properties usually upon application by property owners. Examples of adjudicative matters include applications by landowners for special use permits, administrative permits, variances, parcel or subdivision maps, development agreements, and master plan amendments or re-zoning requests for an individual property or project.
- b. **Board** means the Washoe County Board of Adjustment.
- c. **BCC** means Washoe County Board of County Commissioners.
- d. **Division** means the Planning and Development Division of the Community Services Department.
- e. **Development Code** means the Development Code of Washoe County, WCC Chapter 110.
- f. **Director** means the chief executive or director of the Division, or his/her designee.
- g. **General Business matter** includes taking action on general business items and procedural matters such as election of officers, appointment of committees, ceremonial or administrative resolutions, and amendments to these rules.
- h. **Legislative matter** includes establishing overall land use policies or designations involving a large area consisting of multiple properties in disparate ownership, including adoption or amendment of the master plan or regulatory zoning regulations as they would generally apply to multiple properties of diverse ownership, or amendments to the Development Code. However, an application for a master plan amendment or regulatory zoning classification for the benefit of a particular property or project is considered as an adjudicative matter.

**1.02 Board Determines Rules, Policies and Procedures**

The Board, under state statute (Nevada Revised Statutes [NRS] 278.290 to 278.310 inclusive) and by Development Code (Section 110.912.10), has the responsibility for reviewing and approving variances, administrative permits and special use permits for the unincorporated portions of the County. In addition, the Board is responsible for

making determinations on appeals of administrative decisions concerning zoning regulations and regulations concerning the location or soundness of structures made by County officials. In the furtherance of these responsibilities, the Board adopts the following rules, policies and procedures and from time to time may amend said rules, policies and procedures. Furthermore the Board has all the powers and duties imposed on it by law, including NRS Chapter 278 and the Washoe County Development Code. These rules have no effect to the extent of any conflict between any provisions of these rules and any applicable constitutional provisions, statutes, or county code provisions.

### 1.03 Duties and Responsibilities

#### a. POLICY

- i. Members of the Board shall keep themselves informed on planning laws, policies, procedures and trends in planning practice, and ethics laws of Nevada.
- ii. The five Board Members shall represent the best interests of unincorporated Washoe County.
- iii. Members shall endeavor to provide questions on agenda items to the Planning Managers or staff of the Division a minimum of 24 hours prior to the meeting on which the agenda item is scheduled.

#### b. RULE

- i. Members shall be prompt and diligent in attendance.
- ii. Failure of a Member to attend three successive regular meetings, or miss more than 25% of scheduled meetings annually, will be reported to the BCC and said absences may be considered justifiable cause for replacement.

### 1.04 Communications Outside of Public Hearings or Meetings

- a. POLICY. General: Except for legislative and general business matters, Members should avoid ex parte communications (i.e., private communications outside a public meeting with interested parties) regarding matters coming before the Board. Parties should be encouraged to discuss their comments with staff or at the public hearing rather than privately with individual Members.

- i. Adjudicative matters. With respect to such actions Members must keep an open mind and not form or communicate any preferences or thoughts that may be perceived as prehearing bias.
- ii. Site Visits. Site visits may be important to gain a better understanding of the proposed actions and their impact on surrounding lands. Members may view sites from public roadways to gain understanding, however, site visits are subject to any applicable legal restrictions on the entry of land, and site visits must be pursuant to any required authorization of the owner(s) of the land being visited.

#### b. RULE

- i. Members shall not solicit, offer or accept any offer for any business relationship or arrangement with any interested party. Any preexisting, ongoing or expected business relationship with any interested party must be disclosed and may be grounds for abstention under NRS Chapter 281A.

## **1.05 Ethical Principles for Planning; Disclosures and Abstentions**

### **a. POLICY**

- i The Board is governed by Nevada's ethics laws, including NRS Chapter 281A. The Board may also use the American Planning Association's *Ethical Principles in Planning (Appendix A)* as guiding principles for the conduct of Board Members.

## **Article 2 QUORUM AND VOTING**

### **2.01 Number of Members Required to Conduct Business**

- a. For general matters of business a quorum of the Board shall be a simple majority of the Board, three Members.
- b. For a matter requiring a majority vote of the full membership as required by state statute the following rules apply:
  - i. Full membership means the number of Members appointed and serving on the Board. An unfilled vacancy does not count as part of the total membership. For example, if four Members are appointed and serving on the Board, not less than three Members must be in attendance and vote to approve the action on said motion. The term "in attendance" means physically present at the meeting or attending the meeting through a telephone or video conference.
  - ii. In the event that the minimum required Members of the Board are not present, the item shall be scheduled for the next appropriate regular meeting.

### **2.02 Voting**

- a. Unless otherwise required by law, an affirmative vote by a majority of the Members present at a meeting is required to approve all matters. An affirmative majority vote of the Board at a meeting is required to reverse, modify or remand a decision being appealed. In the absence of an affirmative vote by a majority of the Board at a meeting to reverse, modify, or remand a decision being appealed, the decision being appealed stands.
- b. A tie vote means the motion does not pass.

## **Article 3 MEETINGS**

### **3.01 Notice and Agenda**

- a. The Board is a public body and must comply with the laws of Nevada regarding public and open meetings, including NRS Chapter 241 (open meeting law).
- b. Robert's Rules of Order, as amended, may be used for guidance for Board meeting procedures when a question or controversy arises. Alternatively, the Chair may employ other procedures or techniques in an effort to provide for deliberation, an opportunity for the public and Members to be heard and for the Board to reach a consensus and/or decision.

- c. In order to maximize public participation in a meeting, Board meetings should not extend beyond 6:00 p.m. and the Chair is authorized to continue items that would start after that time.

### **3.02 Regular Meetings**

- a. The Board may hold at least one regular meeting each month, but may meet less frequently if the Board decides.
- b. The first Thursday of every even-numbered month is the regular meeting day.
  - i. Should the first Thursday of the month fall on a holiday, or interfere with a special event using the meeting facilities of the County complex, the meeting shall be held on an alternate date and/or at an alternate meeting facility as determined by the Chair or Acting Chair.
- c. Order of Business. Regular meetings shall be conducted in the following order: Asterisks (\*) are used to denote non-action items. Agenda headings will be modified to correctly indicate whether or not an item is an action (no asterisk) or a non-action action (\*).
  1. \*Determination of a Quorum
  2. \*Pledge of Allegiance
  3. \*Ethics Law Announcement
  4. \*Appeal Procedure
  5. \*General Public Comment
  6. Approval of Agenda
  7. Approval of Minutes
  8. Consent Items
  9. Public Hearings
  10. Planning Items
  11. Chair and Board Items
  12. Director's and Legal Counsel's Items
  13. \* General Public Comment
  14. Adjournment

### **3.03 Special Meetings**

- a. Special meetings may be held, as required, upon call of the Chair or Acting Chair, or upon the call of not less than three Board Members.

### **3.04 Continued Items**

- a. The Board may vote to grant a continuance on an agendized item upon request of a Member, the Applicant or the Applicant's Representative. If the Board decides to continue an item, the Chair shall first ask if anyone in the audience wishes to testify on the matter even though it may be continued to another date, time and location

certain.

### **3.05 General Expectations of Members During Meetings**

- a. Members shall treat each other and all persons at a meeting with respect before, during and after the meeting. The decorum rules stated below apply to Members as well as members of the public.

### **3.06 Meeting Decorum; Removal for Disruptive Conduct**

- a. Meetings of the Board are limited forums for the governmental purpose of making planning decisions for the community in accordance with its duties under state and local law. That governmental purpose is efficiently accomplished only when the process established by law is followed and all participants in a meeting conduct themselves within the limits established and with decorum, civic responsibility and mutual respect.
- b. It is the intent of the Board to maintain the highest level of decorum. The Chair is authorized to take appropriate actions to maintain such decorum to include declaring recesses, admonishing speakers and other remedies set forth below.
- c. The viewpoint of any speaker will not be restricted, but reasonable restrictions may be imposed upon the time, place and manner of speech at the meeting. Unless otherwise required by law, remarks which are irrelevant, impertinent, unduly repetitious, or which contain personal attacks, implied or actual threats, fighting words or profanity are not consistent with efficiently accomplishing the governmental purpose.
- d. The Chair may remove (with or without warning) any person who willfully makes the kind of remarks described above or engages in other disorderly conduct, if such remarks or conduct makes the orderly conduct of the meeting impractical. Removal for disruptive conduct will be for the remainder of the meeting. If the Chair removes a Member for disruptive conduct, the removal may be only for the agenda item being considered when the disruption occurred.

### **3.07 Procedures for Individual Agenda Items**

- a. General Principles. These rules are intended to promote consistency, efficiency, and fairness and to maximize public input in the conduct of meetings of the Board. These rules apply to all proceedings before the Board.

#### **[1] Motions.**

- a. Motions must be seconded before acceptance or debate. If a motion is not seconded, it is considered moot and the Chair may call for further discussion or a new motion. Unless otherwise directed by the Chair, motions may be made and voted upon in accordance with Robert's Rules of Order.

#### **[2] Vote.**

- a. The Chair shall call for a vote.
- b. If no motion is made, if a motion to deny is passed, or if a motion to approve an adjudicative matter does not receive the required number of affirmative votes, it is deemed denied with prejudice. However, a separate motion may be made and approved to deny without prejudice based on the circumstances outlined within section 4.02.



**[3] Written decision; appeal rights.**

- a. Within 60 days from the Board action, an Action Order shall be prepared and filed with the Secretary to the Board, and a copy will be sent to the Applicant in an adjudicative matter.

**Article 4 SPECIAL CIRCUMSTANCES**

**4.01 Request to Withdraw or Continue an Item**

- a. POLICY. An applicant has the ability to withdraw or request the continuance of an item submitted for consideration by the Board at any point prior to action being taken by the Board.
  - i. A withdrawn application is not a denied application, and therefore is not subject to the “one year wait on denials” provisions of the Development Code for submitting a new development application request.

**4.02 Denial Without Prejudice**

- a. RULE
  - i. A motion to deny without prejudice (which allows a denied application to be resubmitted prior to the expiration of a required waiting period as defined in the Development Code) can be offered by any Member

**Article 5 APPEALS TO THE BOARD**

**5.01 Matters that may be Appealed**

Appeals shall be handled in accordance with law, including NRS Chapter 278 and the Washoe County Development Code.

**Article 6 OFFICERS OF THE BOARD**

**6.01 Titles**

The officers of the Board shall be:

- a. Chair, who shall preside at all meetings, maintain order, call special meetings, appoint committees and generally represent the Board.
- b. Vice Chair, who will perform all of the Chair’s functions in the absence of the Chair.
- c. Secretary to the Board (non-voting), who shall be the Director or his/her designee, and who shall maintain the Board records; Rules, Policies and Procedures; and attachments.

**6.02 Election of Officers**

- a. The first Board meeting in August shall include on the agenda the election of officers.
- b. The Chair will take office immediately upon election and will officiate over the remainder of the elections and the meeting in progress. All other elected officers shall take office

immediately upon election.

### **6.03 Terms of Office**

- a. The Chair and Vice Chair of the Board shall be elected by the Members and shall each serve for one year, or until his successor is elected and takes office. The Chair and Vice Chair shall be limited to two consecutive terms per Member.
- b. In the case the Chair does not complete his/her term of office, the Vice Chair who succeeds him/her may serve as Chair for two full terms.

### **6.04 Authority to Sign**

- a. The Secretary to the Board may sign such documents as may require certification on behalf of the Board. Transmittals of Board action or intent to the BCC and/or the County Clerk will generally be the responsibility of the Secretary to the Board.
- b. The Chair shall sign such documents as required by Nevada Revised Statutes or the Development Code.

### **6.05 Delegation of Authority**

The Board may designate one or more Members or the Secretary to the Board to act for the Board in the conduct of hearings or the performance of its duties. The Board may also delegate to such Members, when appropriate and to the extent permitted by law, such authority as may be necessary.

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