



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

April 7, 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.

Article 7 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:** *April 7, 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.