



**CITY OF HENDERSON
BOARD OF APPEALS
AGENDA
Special Meeting**

**December 11, 2013
2:00pm
Meeting Inquiries: 702-267-3631**

**Council Chambers Conf Room
240 Water Street, 1st Floor
Henderson, NV 89015**

Notice to persons with special needs: For those requiring special assistance or accommodation to attend or participate in this meeting, arrangements for a sign language interpreter or services necessary for effective communication for qualified persons with disabilities should be made as soon as possible, but no later than 72 hours before the scheduled event. Listening devices are available for persons with hearing impairments.

Please contact Michelle Page at 702-267-3631 or TTY: 7-1-1, **at least 72 hours in advance** to request a sign language interpreter. You may also submit your request by using [Contact Henderson](#).

The Chairman reserves the right to hear agenda items out of order, combine two or more agenda items for consideration, remove an item from the agenda, or delay discussion relating to an item on the agenda at any time. All items are action items unless otherwise noted.

Individuals speaking on an item will be limited to three (3) minutes and spokespersons for a group will be limited to ten (10) minutes.

Backup materials for agenda items can be found at:
http://www.cityofhenderson.com/building_fire_safety/board_of_appeals.php
To request backup materials, please contact Michelle Page at (702) 267-3631.

I. CALL TO ORDER

II. CONFIRMATION OF POSTING AND ROLL CALL

III. ACCEPTANCE OF AGENDA (For Possible Action)

IV. PUBLIC COMMENT

Note: Items discussed under Public Comment cannot be acted upon at this meeting, but may be referred to a future agenda for consideration (NRS 241.020). Individuals speaking on an item will be limited to three (3) minutes and spokespersons for a group will be limited to ten (10) minutes.

V. NEW BUSINESS

1. Recap of Board Hearing Code Enforcement Appeal Issues (For Discussion Only)
2. Review of Proposed Code Enforcement Appeal Procedure (For Possible Action)
3. Review of Proposed Amendments to Bylaws (Discussion Only)

4. Expansion of Board of Appeals Purpose to include Hearing Code Enforcement Appeals (For Possible Action)

VI. PUBLIC COMMENT

Note: Items discussed under Public Comment cannot be acted upon at this meeting, but may be referred to a future agenda for consideration (NRS 241.020). Individuals speaking on an item will be limited to three (3) minutes and spokespersons for a group will be limited to ten (10) minutes.

VII. CHAIRMAN/MEMBER COMMENTS

The Chairman and Members may speak on any subject under this section of the agenda. Chairman and Members may comment on matters including, without limitation, future agenda items, upcoming meeting dates, and meeting procedures. Comments made cannot be acted upon or discussed at this meeting, but may be placed on a future agenda for consideration by the Body.

VIII. SET NEXT MEETING – January 22, 2014, 2:00pm (Special Meeting)

IX. ADJOURNMENT

Posted prior to 9:00 a.m., **Thursday, December 5, 2013**
at the following locations:
City Hall, 240 Water Street, 1st Floor Lobbies (2)
Multigenerational Center, 250 South Green Valley Parkway
Whitney Ranch Recreational Center, 1575 Galleria Drive
Fire Station No. 86, 96 Via Antincendio

Appeal to the Board of Appeals

Framework

- I. Procedures for requesting an appeal and associated fees.
 - a. An owner, responsible person, firm or corporation, may request an appeal by filing an application within ten (10) days after an administrative citation and/or notice to abate is issued. Parties may appeal the following: lack of due process, fines and fees associated with a violation, notices of abatement, and/or liens levied against a property.
 - b. Notices of violation are not appealable due to lack of ripeness.
 - c. The request for an appeal shall be made in writing on an application form provided by the Community Development and Services Director, or his/her designee, and shall state the grounds for requesting the hearing.
 - d. A non-refundable fee of fifty (\$50.00) dollars shall be paid at the time of filing an appeal application.
 - e. Upon request, the Community Development and Services Director may wave the filing fee for applicants who are seniors over the age of 65, those with disabilities, households below eighty percent of median income, or in the interest of justice.
 - f. The Board under an appeal process is not authorized to grant exceptions or modifications to the Property Maintenance Code. The Board may hear appeals as limited by this Chapter.

- II. Procedures for Notification of a Board of Appeals hearing.
 - a. The chairman of the board shall review the appeals application to verify if it meets the minimum standards for appealable rights. The applicant will be notified in writing immediately following the decision.
 - b. The appeal process ends upon an applicant receiving a written denial notification.
 - c. Where the applicant has made a timely request and the violation of the appeal has met the appealable rights under this chapter, the applicant will receive a written notification of the appeal process. The board of appeals shall meet upon notice from the chairman no later than fourteen (14) Henderson business days after the approval of the appeal. There must be a quorum represented on the board before an appeal can be heard.
 - d. The secretary for the board of appeals shall schedule the date, time, and location for the hearing. Written notification shall be served to the applicant at least ten (10) Henderson business days prior to the date of the hearing.
 - e. Written requests for continuance of the hearing date shall be made to the secretary for the board of appeals. If approved, applicant will receive written notification of the new date, time, and location for the hearing. Applicants may request a maximum of two (2) continuances.

III. Disqualification of Board Member.

- a. Any member of an appeal board shall not participate in an appeal of any matter wherein a conflict of interest is present, bias or prejudice as defined in the Nevada Ethics in Government Law, NRS Chapter 281, as amended from time to time, Henderson Municipal Code Chapter 2.40, as amended from time to time, or for any other reason for which a judge may be disqualified for in a court of law.
- b. Whenever a board member has a personal, monetary, or business interest in the outcome of an appeal, the board member shall recuse himself or herself from participation in the hearing, and shall not communicate with any other board member hearing the matter.
- c. For other conflicts of interest not already mentioned, a board member may hear such appeal upon full disclosure of the conflict and approval of all parties appearing before the board.
- d. If it is unclear whether recusal of a board member is necessary, the board member shall recuse himself or herself from hearing the appeal.

IV. Failure to attend the Board of Appeals hearing.

- a. Any applicant who requests a hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and all objections, provided that the hearing was properly noticed and no continuances were received.

V. Procedure at the Board of Appeals hearing.

- a. The appeal hearing will be open for public viewing and subject to open meeting laws.
- b. The board of appeals hearing is intended to be informal in nature. The board is not bound by the technical rules of evidence or discovery.
- c. The City will have an opportunity to present facts, evidence, and statements to support its position. Any materials the City intends on presenting or using must be provided to the secretary of the board of appeals no later than five (5) Henderson business days prior to the appeal hearing. These materials will be subject to the open meeting laws and will be accessible for public view.
- d. The applicant or his/her representative will have an opportunity to present facts, evidence, and statements that support his/her position. Any materials an applicant intends on presenting or using must be provided to the secretary of the board of appeals no later than five (5) Henderson business days prior to the appeal hearing. These materials will be subject to the open meeting laws and will be accessible for public view.
- e. During the appeal hearing, the board of appeals may inquire, seek clarification, or gather any necessary information to assist in making a final decision.
- f. Any member of the board of appeals has the power to issue subpoenas for attendance of witnesses at the hearing, or for production of records or other tangible or intangible things either prior to or at such hearing, and may issue such subpoenas at the request of any party to such proceeding or upon the request or action of any board member.

Enforcement of obedience to any duly-issued subpoena shall rest with the Henderson municipal court. The board of appeals may, if deemed appropriate, continue a hearing upon cause where justice requires.

- g. Stay of Enforcement. Appeal of notices and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeals board hears the appeal, issues its decision, and it is received by the applicant.

VI. Appeal Decision from the Board of Appeals

- a. The board of appeals shall conduct a hearing to determine whether to uphold or reverse the existence of due process, fines and fees associated with a violation, notices of abatement, and/or liens levied against a property. Upon upholding any notices and orders, such action(s), fines, and fees shall become due.
- b. The board of appeals shall make a determination by a majority vote of a quorum.
- c. The board of appeals shall issue a written final decision within thirty (30) Henderson business days of the conclusion of the appeal.
- d. Failure to comply with a board of appeals decision constitutes a misdemeanor.
- e. Appeal Rights by Applicant.

VII. Liability of Board Members

- a. The liability of board members acting in their official shall be limited by the Nevada Revised Statutes and applicable law.

AMENDED AND RESTATED BYLAWS

OF THE

BOARD OF APPEALS

ARTICLE I

Name

The name of this Board is the Board of Appeals.

ARTICLE II

Purpose

The purpose of such Board shall be to hear all appeals of any person aggrieved or alleged to be aggrieved by any final determination or decision of the ~~Director of the Building and Fire Safety Department~~ Director of Community Development and Services Department, the Building Official, or the Fire Chief, or their designee, in any determination or ~~interpretation application by the Director or Chief~~ of the technical codes adopted by the City, ~~the and the building standards provisions of the~~ Property Maintenance Code, and/or the Abandoned Registry Ordinance contained in Title 15 of the Henderson Municipal Code.

ARTICLE III

Members

- A. The seven (7) members of the Board of Appeals shall be appointed by the Mayor and City Council of the City of Henderson to serve at the pleasure of the appointing authority.
- B. The Board members shall elect one (1) member as Chairman, and one (1) member as Vice-Chairman. The term of office shall be one (1) year. However, nothing herein shall prohibit the Chairman or Vice-Chairman from being elected to consecutive terms.
- C. This Board is exempt from the Council policy on Board and Commission appointments.
- D. Any committee member who compiles more than three (3) consecutive unexcused absences shall be considered to have resigned.
- E. Excused absences are defined as absences due to illness of a member or a member's family, employment-related activities, or other instances as approved by the

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Chairman on a case-by-case basis. Notification of absences is to be made to the Secretary of the Board of Appeals.

ARTICLE IV Powers and Duties

- A. The Chairman shall preside at all meetings, call meetings, and review and approve the agenda for meetings.
- B. The Vice-Chairman shall act as Chairman and perform those duties in the absence of the Chairman.
- C. The decision of the Board is final and may not be appealed to the City Council.

ARTICLE V Meetings and Meeting Requirements

- A. Meetings of the Board of Appeals will be held on an as-needed basis. The Board will meet at least twice a year, once in April for election of Chairman and Vice-Chairman and one other time during the calendar year.
- B. A quorum of the Board is a minimum of four (4).
- C. All meetings shall be properly noticed and posted according to Nevada Revised Statutes.
- D. Routine motions and resolutions require a majority vote of a quorum of the members, ~~including the Chairman~~. A second to a motion is necessary.
- E. The Board of Appeals will use a prepared agenda. Appropriate backup materials must be submitted with the item requested.
- F. The Secretary to the Board of Appeals shall prepare and mail all agendas and backup material to the Board and other desiring notification. The City of Henderson shall provide the service of a Minutes Clerk to take the minutes. The custodian of all records of the Board shall be the City Clerk.

ARTICLE VI Parliamentary Authority

- A. The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Board of Appeals in all cases where they are applicable and in which

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they are not inconsistent with the ordinance governing this board, these Bylaws, and any special rules of order the Board may adopt.

**ARTICLE VII
Amendments of Bylaws**

- A. Proposed amendments to the Bylaws shall require a majority vote of a quorum of the members, provided that the amendment has been submitted in writing to each member of the Board at least 30 days prior to the meeting at which action on the amendment is to be taken.

These Amended and Restated Bylaws were considered and adopted by the Board of Appeals on _____, 2014. DATE ADOPTED: November 18, 2008

~~Leonard Smith~~ Ed Bless, Chairman

APPROVED TO FORM:

Mark Zalaoras, Assistant City Attorney

ATTEST:

~~D'Ann Sas~~ Michelle Page, Board Secretary

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