

City of Las Vegas Board of Appeals

BY-LAWS

November 15, 2012

**ARTICLE I – NAME**

The name of this Board shall be the Board of Appeals for the City of Las Vegas

**ARTICLE II – PURPOSE**

The purpose of this Board is to hear and decide appeals of the determinations made by the Building Official and/or Fire Marshal relative to the application and interpretation of the technical codes including review of proposed alternate materials, methods of design and methods of construction.

**ARTICLE III – MEMBERS**

- A. The Board members shall elect one (1) member as Chairman and one (1) members as Vice Chairman and the terms for these shall be one (1) year. However, nothing herein shall prohibit the Chairman or Vice-Chairman from being elected to consecutive terms within the term limits for members of the Board of Appeals as designated by City Ordinance and Council.
- B. Any member who compiles more than three consecutive unexcused absences shall be considered to have resigned.
- C. 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 Chairman on a case-by-case basis. Notification of absences shall be made to the Department handling the appeal for the agenda.

**ARTICLE IV – POWERS AND DUTIES**

- A. The Chairman shall preside at all meetings.
- B. The Vice-Chairman shall act as Chairman and perform those duties in the absence of the Chairman.
- C. In the absence of both the Chairman and Vice-Chairman of the Board of Appeals, a Chairman pro tempore shall be elected from among those members present by a majority vote of all the Board members present.
- D. The Chair may appoint various members of the Board to review specific details of appeals or to research and recommend back to the entire Board on specific matters related to the Boards functions.

## **ARTICLE V - MEETINGS AND MEETING REQUIREMENTS**

- A. Meetings of the Board of Appeals will be held on an as-needed basis as requested by either the Building Official or Fire Marshal. The Board will meet at least once a year minimum with the annual meeting occurring in April of each calendar year to elect the Chairman and Vice-Chairman and other business as needed.
- B. A quorum of the Board is a minimum of five (5) members present. A quorum is required for all meetings. There shall be no discussion of items or consideration of agenda items, other than to adjourn, without the presence of a quorum of the members.
- C. All meetings shall be properly noticed and posted by the City of Las Vegas Clerk's Office according to Nevada Revised Statutes, Open Meeting Law.
- D. Routine motions and resolutions may be passed by a majority vote of those present and voting.
- E. The Board will use an agenda as defined in the Open Meeting Law. Appropriate backup materials must be submitted with the item of interest. The agenda and back up items will be posted by the City Clerk and mailed to the members of the Board no sooner than 4 days prior to the scheduled meeting; provided, however, that any member may waive the mailing requirement in writing.
- F. An appeal will be heard at a meeting called pursuant to law by the Building Official or Fire Marshal. All appeals to the Board shall be written on forms provided by the Building Official or Fire Marshal. Within 4 working days after receiving a written appeal, the Building Official or Fire Marshal, as the case may be, shall determine whether an appeal is in conformance with Board's established requirements. If the appeal conforms to those requirements, the Building Official or Fire Marshal shall use best efforts to schedule an appeal hearing within ten (10) days after determining such conformance.
- G. Appeals to the Board shall be in writing. Appeals shall be limited to a specific decision of either the Building Official or Fire Marshal in the enforcement, application or implementation of the adopted building technical codes or fire code. Consideration of the appeal by the Board shall be limited to the specific decision appealed.
- H. Written appeals to the Board shall be submitted within ten (10) working days of receiving a written determination from the Building Official to the City Clerk's Office, who will then forward the appeal to either the Building Official or Fire Marshal as appropriate.
- I. The appellant has the burden to submit adequate information or data that supports the grounds or reasoning for the appeal to the Board.
- J. The appellant has the obligation to present their case of appeal to the Board and may submit evidence or argument only to the specific appeal originally submitted in writing. If an appellant wishes to appeal more than one decision of either the Building Official or Fire Marshal, each appeal shall be heard separately. At the discretion of the Board, certain items may be heard together.
- K. All decisions of the Board shall be based upon the evidence presented at the hearing and in writing. The decision shall be signed by the Chairman of the Board and filed with the City Clerk and Building Official or Fire Marshal as applicable. A copy of the Board decision shall be delivered to the appellant in person or by U.S. Certified Mail within 14 calendar days of the

Board's decision.

- L. As to appeals filed under the provisions of the City's Administrative Code, the Board shall not have authority relative to the interpretation of the administrative of that Code or of the technical codes related to the Administrative Code, nor shall the Board be empowered to waive any requirements of the Administrative Code or related technical codes. As to appeals filed under the Fire Code, the appeal must be based on a claim that the intent of the Fire Code or rules adopted there under have been incorrectly interpreted or do not fully apply, or that an equivalent method of safety or protection is proposed. The Board shall have no authority to waive requirements of the Fire Code.
- M. The Board may require the appellant, at the appellant's expense, to conduct any tests or perform any research the Board deems necessary to support the appellant's claims before the Board as a part of its consideration of the appeal.
- N. The assigned support staff shall prepare and mail all agendas material to the Board and others desiring notification. A support team will handle all meetings, including agenda preparation, attend the meetings, prepare minutes and finalization of the final record. The Building Official or Fire Marshal or their designees shall prepare a written final decision for the Chairman of the Board to sign. The custodian of all records of the Board of Appeals shall be the City Clerk.

#### **ARTICLE VI – RULES OF CONDUCT**

- A. All members of the Board shall be entitled to vote on all motions or actions on matters before the Board except as specifically noted in these by-laws, State Law and city ordinances concerning conflicts of interest.
- B. Every member desiring to speak shall address the Chair and upon recognition by the Chair, shall confine themselves to the question under debate, avoiding all personalities and indecorous language.
- C. A Board member, once recognized, shall not be interrupted when speaking unless it is to that member to order. If a Board Member is called to order, the member shall cease speaking until the question of order is determined, and if in order, shall be permitted to proceed.
- D. Any person wishing to address the Board shall first secure permission of the Chair to do so.
- E. The Chairman shall call the hearing to order and follow the agenda per the Open Meeting Law. In order of testimony, the Building Official or Fire Marshal and/or their designated representatives shall describe the code violation, notice, or order and present the position of Department. The appellant will follow with an explanation of their position on why the appeal should be granted. The appellant may testify, present witnesses, and present any documents directly related to the matter under consideration by the Board to support their position. The appellant may question the Building Official, Fire Marshal or their designated representatives present. The City's representatives and members of the Board may as the appellant and any witnesses' questions regarding the appeal. Both the appellant and the City will be given the opportunity to present evidence. The Chairman shall call for the Board's deliberation at which time no further testimony shall be taken except to answer specific questions directed from the

Board members.

- F. Any member of the Board that may have knowledge of any facts which may constitute a conflict of interest in their consideration of any appeal, shall forthwith notify the Chairman of the Board of Appeals and the members of said facts.
- G. A member who decides to abstain because of a conflict of interest or otherwise must state in generic terms their reason for doing so on the record at the time the matter is considered and before any discussion or vote is taken. The abstaining member shall absent themselves from the presence of the non-abstaining members during the Commission's consideration of the matter in question.

#### **ARTICLE VII – PARLIAMENTARY AUTHORITY**

- A. The rules contained in the current edition of Robert's Rules of Order Newly Revised (CHAPTER XVI – BOARDS AND COMMITTEES; small boards and committees) shall govern the Board of Appeals in all cases where they are applicable and in which they are not inconsistent with the ordinance governing this board, these Bylaws, and any special rules of order the Board may adopt.
- B. The Board shall act in a quasi-judicial manner with all hearing and deliberations conducted in public.
- C. In the event of any conflict between these bylaws and the City's Administrative Code or Fire Code, the Administrative Code and Fire Codes will govern.

#### **ARTICLE VIII – AMENDMENTS OF BYLAWS**

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 the action on the amendment is to be taken.

**DATE ADOPTED:** \_\_\_\_\_

**APPROVED TO FORM:**

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**ATTEST:**

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