

Nevada County Code

[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[TITLE 3 LAND USE AND DEVELOPMENT CODE](#)[CHAPTER II: ZONING REGULATIONS](#)[ARTICLE 5 ADMINISTRATION AND ENFORCEMENT](#)[\[remove highlighting \]](#)**Sec. L-II 5.12 Appeals**

- A. **Purpose.** To establish procedures to be used by the Board of Supervisors in conducting public hearings on appeals of land use matters. These procedures provide for a fair and orderly hearing process in which all interested parties are accorded an opportunity to be heard.
- B. **Application.** The provisions of this Article apply to all appeals of land use applications and the action taken thereon by the Planning Agency. Additionally, the Board of Supervisors may use such provisions of this Article in conducting public hearings on other land use matters before them.
- C. **Standing to Appeal.** Any applicant for a land use permit or other approval, including a petition for a General Plan amendment or rezoning, and any interested party in any such application or petition, shall have the right to file an appeal to the Board of Supervisors on any decision of the Planning Agency.
- D. **Appeal Periods.** An appeal of any decision of the Planning Agency shall be filed with the Clerk of the Board of Supervisors, in the manner specified in this Article, within 10 calendar days from the date of the Planning Agency's action, except amendments to the General Plan or zoning ordinance which shall be filed within 5 calendar days. Any such appeal shall be accompanied by the appropriate fee, which shall be paid to the Clerk of the Board of Supervisors.
- E. **Stay of the Planning of Agency's Action.** The filing of such an appeal within the above stated time limits shall stay the effective date of the Planning Agency's action until the Board of Supervisors has acted upon the appeal.
- F. **Requirements for Statement on Appeal.** An appeal shall only be filed on the official form provided by the Clerk of the Board of Supervisors together with such additional information as may be necessary. A statement of appeal shall include, but not limited to:
1. Identification of the project and the decision of the Planning Agency action which is the basis of the appeal.
 2. A statement of the reasons for the appeal.
 3. A statement of the specific provisions which are being appealed.
 4. A statement of the changes or action requested of the Board of Supervisors.
 5. A summation of the arguments to be raised by the applicant.
 6. Identification of the appellant.
- G. **Review of Notice of Appeal by Board of Supervisors.** Upon the filing of an appeal with the Board of Supervisors, the Clerk shall present such appeal to the Board of Supervisors at their next regular meeting. At that time the Board shall determine if the appeal was filed within the applicable time limits and shall summarily reject any appeal that is filed beyond the time limits prescribed herein. Further, the Board shall determine if the appeal contains sufficient information as required by this Section. If the Board determines that the information as supplied in the appeal is incomplete, it may:
1. Summarily reject the appeal for any such insufficiency of statement on appeal; or it may
 2. Instruct the Clerk of the Board of Supervisors to immediately notify the appellant of the insufficiency and allow the appellant an additional 7 working days in which to correct any such deficiency. If upon the expiration of any additional time, the Board determines that the statement on appeal is still insufficient, it shall summarily reject the appeal.

H. **Board's Authority to Summarily Reject or to Set Appeal for Hearing.** Upon presentation of the Notice of Appeal, together with the required statement on appeal, to the Board of Supervisors, the Board may summarily reject the appeal if they find that the matter being appealed is a requirement of law, or if they by unanimous vote find the appeal unmeritorious; or the Board may set the matter for public hearing as soon as time on their agenda permits, and in accordance with any other time requirements of law.

I. **Board's Authority to Review Planning Agency Matters.** The Board of Supervisors shall have the right, by majority vote within 10 calendar days from the date of the Planning Agency's action, to review any decision of the Planning Agency. Any such review as initiated by the Board shall be regarded as a full hearing de novo (new hearing), excepting that the provisions of Subsections E, J, and K of this Section shall apply.

J. **Notice and Hearing.** Following a determination by the Board to set the matter for public hearing, the Board shall hold such hearing pursuant to Section 5.13.

K. **Hearing Procedures.** At the time and place set for any hearing as provided for herein, the Board of Supervisors shall conduct any such appeal hearing as a full hearing de novo on the project, without limitation as to the issues that may be raised, or as to the evidence that may be received. Any such hearing shall be conducted as follows:

1. Staff presentation.
2. Presentation by appellant which shall be limited to 15 minutes.
3. Presentation by project proponent (if different party than appellant) which shall be limited to 15 minutes.
4. Public hearing: The Board may limit any person's input to not less than 3 minutes in which to give testimony.
5. Summation by project proponent - 10 minutes.
6. Summation by appellant - 10 minutes.
7. Rebuttal by members of the public - 2 minutes.
8. Staff summation.

In the event that anyone desiring to testify before the Board of Supervisors desires to present more information to the Board than may be accomplished within the time limits set forth above, such person shall be permitted to present such information to the Board in writing, within 5 working days prior to the date set for the appeal hearing. Any such information shall be submitted to the Clerk of the Board of Supervisors no later than the end of the fifth working day prior to the date of the hearing.

L. Action by the Board.

1. At the conclusion of the appeal hearing, the Board of Supervisors may sustain, overrule or modify any action of the Planning Agency. The power of the Board to modify shall include the authority to change, delete or add to the conditions of approval as set out by the Planning Agency. Any action by the Board shall be pursuant to Government Code, Section 25005, by not less than 3 affirmative votes, provided, however, that in the event that the Board's action culminates in a 2 to 2 or 2 to 1 vote, such vote shall constitute action by the Board which shall be deemed to be a denial of the appeal and which shall result in a reinstatement of the Planning Agency's action on the project.
2. Any appeal hearing set before the Board pursuant to Government Code Section 66452.5 shall be held within 30 days from the date of filing the appeal. Thereafter, within 10 days following the conclusion of the hearing, the Board of Supervisors shall render its decision on the appeal. The time limits set forth herein shall not be extended.

M. **Statute of Limitations.** The decision of the Board of Supervisors shall be final on all matters unless an appeal therefrom is filed with the Superior Court of the County of Nevada within 90 days after the decision of the Board of Supervisors.

N. Refund of Appeal Fees.

1. Upon the conclusion of any appeal, where the Board of Supervisors upholds the appeal and overturns the decision of the Planning Agency, the Board may also authorize the return of all appeal fees filed by the appellant. The Board shall not authorize the return of the appeal fees if it finds that the Board's decision was, in

whole or in part, based upon new evidence submitted by the appellant at the appeal hearing and which evidence was not provided to the lower hearing body.

2. Upon the conclusion of any appeal, where the Board denies the appeal but finds that appellants raised issues of substantial merit causing some affirmative change in the decision of the Planning Agency, the Board may also authorize the return of any portion of the appeal fees it deems just. (Ord. 2370 § 1, 2013)

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