

PLANNING AND ZONING APPEALS

BILL NO. \_\_\_\_\_

INTRODUCED BY COUNCIL

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 20.05.013 OF THE SPARKS MUNICIPAL CODE, DEFINING AN AGGRIEVED PERSON FOR PURPOSES OF PLANNING AND ZONING APPEALS, CONFORMING APPEAL TIMELINES TO NEVADA LAW, AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.**

**THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:**

**SECTION 1.** Section 20.05.013: “Appeals,” is hereby amended as follows:

**Section 20.05.013 – Appeals**

A. Applicability

1. This Section applies to any decision of the Planning Commission, Administrator, or any other person appointed or employed by the City Council who is authorized to make administrative decisions regarding the use of land under this title.
2. An applicant or any aggrieved person ~~aggrieved~~ may appeal a decision subject to subsection 1 if the person claims:
  - a. The intent of a standard in this Title was incorrectly interpreted;
  - b. This title does not apply;
  - c. A better form of design is proposed that does not require a waiver of the requirements of this title; or
  - d. The decision violates state or federal law.
3. An aggrieved person is one whose personal right or right of property is adversely and substantially affected by the action of the decisionmaker.
- ~~3.4.~~ This Section does not apply to a recommendation or other action or decision routinely reviewed by the City Council.
- ~~4.5.~~ The right to appeal to the City Council is waived upon failure to comply with the procedures set forth in this section.

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### B. Initiation

1. The appeal is initiated by filing a written notice of appeal with the City Clerk which identifies all pertinent issues within 11 calendar days after the action or decision.
2. The Mayor or any member of the City Council may request review of a Planning Commission action or decision with a written notice to the city clerk or orally at a meeting of the City Council. Any such notice must be made within 11 calendar days after the action or decision.

### C. Completeness

See Section 20.05.02.

### D. Notice

Appeals shall be noticed in the same manner as the original public hearing for the decision being appealed.

1. The City will provide notice by mail or email to the applicants or aggrieved parties who request personal notice.
2. Appeals of an Administrative decision do not require noticing.

### E. Decision

1. The City Clerk shall set the matter for public hearing at a regular meeting of the City Council ~~to be held within 30 days after a complete appeal is filed.~~
2. The City Council shall review the matter de novo.
3. The City Council may affirm, modify, remand for further consideration or reverse the action or decision.
4. The City Council shall render its decision within 60 days after a complete appeal is filed.

### F. Approval Criteria

In deciding an appeal, the Sparks City Council will consider:

1. The statement of purpose underlying the regulation of the improvement of land expressed in Nevada state law;

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2. The plain language of the regulation and principles of interpretation in this Chapter and Nevada law; and
3. Any applicable requirements of state or federal law.

### G. Subsequent Applications

After the City Council renders a final decision, the City will not consider an appeal involving:

1. The same property and issues, including the same regulations of this title involved in the subject of the appeal; or
2. Any issues that could have been raised during the original appeal.

### H. Appeals

1. The decision of the Sparks City Council is a final decision for the purpose of judicial review.
2. Any person who has appealed a decision to the governing body in accordance with this section and is aggrieved by the decision of the Sparks City Council may appeal the decision to Washoe County District Court by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk of the Sparks City Council.

### I. Scope of Approval

Any permit or decision rendered under this Chapter shall comply with any order of the City Council, as modified or reversed by a final decision on judicial review.

### J. Recordkeeping

The City Clerk will maintain a record of all appeals as provided by the City Charter and Nevada law.

**SECTION 2.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3.** The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law.

**SECTION 4.** This ordinance shall become effective upon passage, approval and publication.

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**SECTION 5.** The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

**SECTION 6.** If any subsection, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

**SECTION 7.** The City Council finds that this ordinance is **not** likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the following vote of the City Council:

**AYES:** \_\_\_\_\_

**NAYS:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by:

\_\_\_\_\_  
**GENO MARTINI, Mayor**

**ATTEST:**

\_\_\_\_\_  
**TERESA GARDNER, City Clerk**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**CHESTER H. ADAMS, City Attorney**