

RULES OF PROCEDURE AND CONDUCT FOR BOARD OF APPEALS/BUILDING ADVISORY COMMITTEE AND RELATED FUNCTIONS AND ACTIVITIES

1. MEETINGS

1.1 REGULAR MEETINGS

The Board of Appeals/Building Advisory Committee (BOA/BAC) will meet a minimum of once per quarter, at a regularly scheduled time and place, according to law. No meetings will be held on a legal holiday.

1.2 QUORUM

Unless otherwise provided for in the Municipal Code, a majority of the Committee shall be sufficient to do business and motions may be passed by a simple majority of those present (such as 4-1). When a quorum does not exist, a meeting cannot be conducted and Committee or Town business will not be discussed.

1.3 LEGALLY REQUIRED PARTICIPATION

If a majority of a Committee shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, the Committee shall select by lot or other means of random selection, or by such other impartial or equitable means as the Committee shall determine, that number of its disqualified members which, when added to the members eligible to vote, shall constitute a quorum.

1.4 MEETINGS TO BE PUBLIC

All meetings of any Committee shall be open to the public. No Committee shall hold any closed sessions or emergency meetings, without the specific consent of the Town Attorney.

1.5 ATTENDANCE AT COMMITTEE MEETINGS

The Town Manager may attend any and all meetings of any Committee created by the Town Council, upon his/her own volition or upon direction of the Town Council. At such meetings, which the Town Manager attends, he/she shall be heard by such Committee as to all matters upon which he/she wishes to address the members thereof. He/she shall inform such members as to the status of any matter being considered by the Town Council, and he/she shall cooperate to the fullest extent with members of all Committees appointed by the Town Council.

1.6 APPOINTMENTS TO THE BOARD

The Board shall consist of seven (7) members who shall be appointed by and serve at the pleasure of the Mammoth Lakes Town Council, hereinafter called Town Council.

1.7 TERMS

Members shall serve 4-year terms and may serve a maximum of two (2) consecutive terms. Board members shall serve staggered terms.

1.8 QUALIFICATIONS

Members shall be qualified by knowledge, experience, and training in construction and code compliance, and shall pass judgment upon matters pertaining to the same.

1.9 NOT TOWN EMPLOYEES

Members of the BOA/BAC shall not be employees of the Town of Mammoth Lakes.

1.10 REMOVAL FROM OFFICE

Any member of a Committee of this Town may be removed from office at any time, with or without cause, by a majority vote of the Town Council, except in cases where the Mayor or Town Council are not the appointing authority (in which cases such regular appointing authority may exercise his/her power of removal). If a member absents himself without advance permission of the Committee or of his/her appointing authority, from three (3) consecutive regular meetings or from twenty-five percent (25%) of the duly scheduled meetings of the Committee within any fiscal year, his/her office shall thereupon become vacant and shall be filled as any other vacancy.

2. ORDER OF BUSINESS

2.1 AGENDA

The Order of Business of each meeting shall be contained in the agenda prepared by the Committee Secretary. The agenda shall be a listing by topic of the subjects, which shall be taken up for consideration. Except with majority consent of the Committee and to accommodate the public, items may not be taken out of order.

2.2 DELIVERY OF AGENDA

Barring insurmountable difficulties, the agenda shall ordinarily be delivered or mailed to Committee members each Friday of the week preceding the scheduled meeting to which it pertains. The agenda shall also be available to the general public at the time it is delivered to the Committee members.

2.3 ROLL CALL

The Committee Secretary shall enter in the minutes the names of those Committee members present. The order of roll call shall be alphabetical with the Chairperson listed last.

2.4 APPROVAL OF MINUTES

Unless requested by a majority of the Committee members, minutes of the previous meeting may be approved without public reading if the Committee Secretary has previously furnished each Committee member with a copy thereof.

2.5 PUBLIC HEARINGS

The public hearing procedure shall be:

The Chairperson shall open the public hearing.

- (a) Statement and presentation by staff.
- (b) Statement and presentation by property owner or appellant.
- (c) Questions from the Committee.
- (d) Call for testimony from those persons wishing to speak in support.
- (e) Call for testimony from those persons wishing to speak in opposition.
- (f) Rebuttal to previous testimony by property owner or appellant.
- (g) Close the public hearing, terminating public testimony.

The Committee shall deliberate the matter and arrive at a decision.

Questions or comments from the public shall be limited to the subject under consideration. Depending upon the extent of the agenda, and the number of persons desiring to speak on an issue, the Chairperson may, at the beginning of the hearing, limit testimony, but in no event to less than five (5) minutes per individual. Any person may speak for a longer period of time, upon approval of the Committee, when it is deemed necessary in such cases as when a person is speaking as a representative of a group or has graphic or slide

presentations requiring more time. Public hearings that exceed a time limit of three (3) hours may, by motion of the Committee, be continued to a time and place so designated.

2.6 PUBLIC COMMENTS

Any person may address the Committee on any subject pertaining to Town business whether listed on the agenda or not, during the Oral Communications portion of the meeting. A limit of five (5) minutes shall be imposed upon each person so desiring to address the Committee.

2.7 CONSENT AGENDA

Items of routine nature, and non-controversial, shall be placed on the consent agenda. All items may be approved by one blanket motion upon unanimous consent. Prior to or following review of the consent agenda by the staff, any Committee member may request that any item be withdrawn from the consent agenda for separate consideration. However, any Committee member may abstain from voting on consent agenda item without requesting its removal from the consent agenda, and the Committee Secretary shall be instructed to record such abstentions in the minutes.

3. DUTIES AND RESPONSIBILITIES

3.1 DUTIES AND RESPONSIBILITIES

The BOA/BAC shall hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretations of codes and/or related Town ordinances. The Committee shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

3.2 UNIFORM BUILDING CODE

The BOA/BAC shall have no authority relative to interpretation of the administrative provisions of the Uniform Building Code nor shall the Board be empowered to waive requirements of this Code.

3.3 ADVISORY

The BOA/BAC shall also act in an advisory capacity to the Town Council and/or the Mammoth Lakes Building Department. The BOA/BAC shall provide, in writing, interpretations and opinions on building code items not specifically addressed in the Uniform Building Code or issue interpretations and opinions on conditions (be it geographical or climatic) unique to the Mammoth

Lakes area.

3.4 HOUSING ADVISORY AND APPEALS BOARD

The BOA/BAC shall act as the Housing Advisory and Appeals Board and make determinations of appeals under the authority and scope of the Uniform Housing Code.

4. CONDUCT OF APPEALS HEARINGS

4.1 HEARINGS

Hearings shall be expedited to prevent undue or unnecessary delays. The Chairman may, in the interest of facilitating the business of the Board, limit the amount of time a person may use in addressing the BOA/BAC. Irrelevant comments shall be ruled out of order by the Chairman.

4.2 APPEALS OF DECISIONS

Appeals of decisions made by the Building Official shall be in writing, shall be directed to a specific decision of the Building Official, and consideration of said appeal by the Board shall be limited to the said specific decision.

4.3 HEARING OF APPEALS

Appeals will be heard at special meetings called pursuant to law by the presiding officer or by a majority of the members. Requests for hearings must be scheduled at least three (3) days prior to such hearing.

4.4 EVIDENCE

If a party of any appeal intends to submit evidence, or a legal argument, said party shall submit evidence of legal argument to the Committee in writing at the time of filing the appeal. Failure to provide such information shall be cause for the rejection of the presentation of such evidence or argument.

4.5 SUBMISSION OF APPEALS

Appeals must be submitted on the proper form and shall state the estimated amount of time that will be required to submit evidence before the Committee.

4.6 EVIDENCE SUBMITTED BY BUILDING OFFICIAL

Evidence submitted by the Building Official shall be made available to the appellant at least three (3) days before the scheduled hearing.

4.7 APPEALS TO TOWN COUNCIL

All decisions of the BOA/BAC may be appealed to the Town Council. Appeals must be in writing and must be submitted to the Town Clerk within ten (10) working days of the final decision of the BOA/BAC, and will then be placed on the agenda of the next regularly scheduled Town Council meeting.

5. PRESIDING OFFICER

5.1 PRESIDING OFFICER

The Chairperson shall be the Presiding Officer at all meetings of the Committee. In the absence of both the Chair and the Vice Chair, the Committee shall elect a temporary presiding officer to serve until the arrival of the Chair or the Vice Chair, or until adjournment.

In accordance with Municipal Code Section 2.28.020, each Committee shall, annually at its first meeting held after June 30th, choose one of its number as chairperson and one as vice-chairperson. Each chairperson and vice-chairperson shall have authority and perform such duties as are commonly associated with his/her respective titles, or any may be specially prescribed by law or by the laws or other rules of the Committee. Vacancies in either such position occurring prior to July 1st may be filled as in the first instance, and a new chairperson or vice-chairperson may be chosen at any time with a majority vote of all members of the Committee.

5.2 SECRETARY

There shall be a Secretary, who shall not be a member of the Committee, but shall be the Building Official of the Mammoth Lakes Building Division and shall be called "Secretary Ex-Officio" to the Committee. The Secretary shall be vested with all the powers and duties of Secretary pursuant to these rules, procedures, and other applicable Ordinances of the Town of Mammoth Lakes, but shall have no vote on any matter before the Committee.

The Secretary shall:

1. Record and keep the minutes of all meetings of the Committee and furnish a copy of the minutes of each meeting to each Committee member.

2. Keep complete files of all communications of the Committee, all documents filed with the Committee, and all other necessary records of the Committee.

3. Act as custodian under the Town Clerk to retain official copies of minutes, books, documents, papers, and other records of the Committee.

4. Call meetings of the Committee and provide the Committee with at least seventy-two (72) hours' notice of appeal hearing requests.

5. Act as representative of the Mammoth Lakes Building Division in all appeal hearings.

6. Perform such other duties as the Committee may from time to time prescribe.

7. Provide necessary staff as may be required to assist the Committee to carry out its function.

5.3 EX-OFFICIO

The Mammoth Lakes Fire Protection District may provide an ex-officio member to the committee.

5.4 CALL TO ORDER:

The meeting of the Committee shall be called to order by the Chair, or, in his/her absence, by the Vice Chair. In the absence of both the Chair and the Vice Chair, the meeting shall be called to order by the Committee Secretary, whereupon the Committee Secretary shall immediately call for the selection of a temporary Presiding Officer.

5.5 PARTICIPATION OF PRESIDING OFFICER

The Presiding Officer may move, second and debate from the Chair, subject only to such limitations of debate as are imposed on all Committee members, and he/she shall not be deprived of any of the rights and privileges of a Committee member by reason of acting as Presiding Officer. However, the Presiding Officer is primarily responsible for the conduct of the meeting. If the Presiding Officer desires to personally engage in extended debate on questions before the Committee, he/she should consider turning the Chair over to another member.

5.6 QUESTION TO BE STATED

The Presiding Officer shall verbally restate each question prior to calling for the vote. Following the vote, the Presiding Officer shall verbally announce whether the question carried or was defeated. The Presiding Officer may also publicly state the effect of the vote for the benefit of the audience before proceeding to the next item of business.

5.7 MAINTENANCE OF ORDER

The Chair or Presiding Officer is responsible for the maintenance of order and decorum at all times. No person is allowed to speak who has not first been recognized by the Chair. All questions and remarks shall be addressed to the Chair. If order cannot be maintained, the Chair may recess the meeting until such time as order can be restored. Ejection from the room may be necessary.

6. RULES, DECORUM AND ORDER

6.1 POINTS OF ORDER:

The Presiding Officer shall determine all Points of Order subject to the right of any member to appeal to the Committee. If any appeal is taken, the question shall be, "Shall the decision of the Presiding Officer be sustained?" in which event a majority vote shall govern and conclusively determine such question of order.

6.2 DECORUM AND ORDER - COMMITTEE MEMBERS

(a) Any Committee member desiring to speak shall address the Chair and, upon recognition by the Presiding Officer, shall confine comments to the question under debate.

(b) A Committee member desiring to question the staff shall address the question to the Department Head, who shall be entitled to either answer the inquiry or designate some member of the Town staff for that purpose.

(c) A Committee member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer; unless a Point of Order is raised by another Committee member; or unless the speaker chooses to yield to questions from another Committee member.

(d) Any Committee member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, he/she shall be permitted to proceed. If ruled to be not in order, he/she shall remain silent or shall alter his/her remarks so as to comply with rules

of the Committee.

(e) Committee members shall accord the utmost courtesy to each other, to Town employees, and to the public appearing before the Committee, and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities.

(f) Any Committee member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the Committee shall require such action.

6.3 DECORUM AND ORDER - EMPLOYEES

Members of the administrative staff and employees of the Town shall observe the same rules of procedure and decorum applicable to members of the Committee. The Town Manager shall insure that all Town employees observe such decorum. Any staff members, including the Town Manager, desiring to address the Committee or members of the public shall first be recognized by the Chair. All remarks shall be addressed to the Chair and not to any one individual Committee member or member of the public.

6.4 DECORUM AND ORDER - PUBLIC

Members of the public attending Committee meetings shall observe the same rules of order and decorum applicable to the Committee. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Committee meeting shall be removed from the room if the sergeant-at-arms is so directed by the Presiding Officer, and such person may be barred from further audience before the Committee. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the Presiding Officer, who may direct the sergeant-at-arms to remove such offenders from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the Presiding Officer.

6.5 ENFORCEMENT OF DECORUM

The Town's Chief of Police or his/her designee shall be ex-officio sergeant-at-arms of the Committee. The sergeant-at-arms shall carry out all orders and instructions issued by the Presiding Officer for the purpose of maintaining order and decorum in the Committee meetings. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant-at-arms or representative to eject any person from the Committee meeting or place him/her under arrest or both. If a sergeant-at-arms is not present at the meeting, the Presiding Officer may recess a meeting pending the arrival of a law enforcement officer, if necessary to restore order or remove an offender.

As set forth in Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting non-feasible, and if order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the Committee may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session pursuant to this section. Nothing in this section shall prohibit the Committee from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

6.6 PERSONAL PRIVILEGE

The right of a member to address the Committee on a question of personal privilege shall be limited to cases in which the member's integrity, character, or motives are assailed, questioned, or impugned.

6.7 CONFLICT OF INTEREST

All Committee members are subject to the provisions of California Law, such as Chapter 7, Title 9, of the California Government Code, relative to conflicts of interest, and to conflicts of interest codes adopted by the Council. Any Committee member prevented from voting because of a conflict of interest shall refrain from debate and voting. Such Committee member may choose to leave the meeting during debate and voting of the issue.

6.8 LIMITATION OF DEBATE

Committee members normally should speak no more than once upon any one subject until every other member choosing to speak thereon has spoken. No member shall speak for a longer time than five (5) minutes each time he/she has the floor, without the approval of a majority vote of the Committee.

6.9 DISSENTS, PROTESTS, AND COMMENTS

Any Committee member shall have the right to express dissent, protest, or comments regarding any action of the Committee, and to have the reason entered in the minutes. If such dissent, protest, or comment is desired to be entered in the minutes, this should be made clear by language such as, "I would like the minutes to show that I am opposed to this action for the following reasons..."

6.10 PROCEDURES IN ABSENCE OF RULES

In the absence of a rule herein to govern a point or procedure, Robert's Rules of Order, Newly Revised, shall be used as a guide.

6.11 RULINGS OF CHAIR FINAL UNLESS OVERRULED

In presiding over Committee meetings, the Chair, Vice Chair or temporary Presiding Officer shall decide all questions of interpretation of these rules, points of order, or other questions of procedure requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Committee members present and voting, and shall be binding and legally effective (even though clearly erroneous) for purposes of the matter under consideration.

7. ADDRESSING THE COMMITTEE

7.1 MANNER OF ADDRESSING THE COMMITTEE

Any member of the public desiring to address the Committee shall proceed to the podium and wait to be recognized by the Presiding Officer. After being recognized, he/she shall state his/her name and address for the record.

All remarks and questions shall be addressed to the Chair and not to any individual Committee member, staff member, or other person. During a public hearing, all remarks shall be limited to the subject under consideration. No person shall enter into any discussion without being recognized by the Presiding Officer.

7.2 TIME LIMITATION

Any member of the public desiring to address the Committee shall limit his/her address to five (5) minutes unless further time has been granted by the Presiding Officer.

7.3 ADDRESSING THE COMMITTEE AFTER MOTION IS MADE

After a motion has been made, or after a public hearing has been closed, no member of the public shall address the Committee without first securing permission of the Presiding Officer and with the consent of the Committee.

7.4 WRITTEN CORRESPONDENCE

The Committee Secretary or Department Head is authorized to

receive and open mail addressed to the Committee as a whole and give it immediate attention to the end that administrative business referred to in said communications, and not necessarily requiring Committee action, may be disposed of between Committee meetings.

Any communication relating to a matter pending, or to be brought before the Committee, shall be included in the agenda packet for the meeting at which such item is to be considered.

Letters appealing administrative or Committee decisions shall be processed under applicable provisions of the Municipal Code or other ordinances.

Copies of all other communications sent to the Committee will be transmitted to them.

7.5 PERSONS AUTHORIZED TO BE WITHIN PLATFORM

No person except Town officials shall be permitted within the platform area in front of the Committee table without the invitation or consent of the Presiding Officer.

8. MOTIONS

8.1 PROCESSING OF MOTIONS

When a motion is made and seconded, it shall be stated by the Presiding Officer before debated. A motion so stated shall not be withdrawn by the mover without the consent of the person seconding it.

8.2 MOTIONS OUT OF ORDER

The Presiding Officer may at any time, by majority consent of the Committee, permit a member to introduce an ordinance, resolution, or motion out of the regular agenda order.

8.3 DIVISION OF QUESTION

If the question contains two or more divisional propositions, the Presiding Officer may, and upon the request of a member shall, divide the same.

8.4 PRECEDENCE OF MOTIONS

When a motion is before the Committee, no motion shall be entertained except the following, which shall have precedence in the following order:

- (a) Adjourn
- (b) Fix hour of adjournment
- (c) Table
- (d) Limit or terminate discussion
- (e) Amend
- (f) Postpone

8.5 MOTION TO ADJOURN (Not debatable)

A motion to adjourn shall be in order at any time, except as follows:

- (a) When repeated without intervening business or discussion.
- (b) When made as an interruption of a member while speaking.
- (c) When discussion has been ended, and vote on motion is pending.
- (d) While a vote is being taken.

A motion to adjourn "to another time" shall be debatable only as to the time to which the meeting is adjourned.

8.6 MOTION TO FIX HOUR OF ADJOURNMENT

Such a motion shall be to set a definite time at which to adjourn and shall not be debated and shall not be amended except by unanimous vote.

8.7 MOTION TO TABLE

A motion to table shall be used to temporarily bypass the subject. A motion to table shall not be debated and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" at any time prior to the end of the next regular meeting.

8.8 MOTION TO LIMIT OR TERMINATE DISCUSSION

Such a motion shall be used to limit or close debate or further amendment to the main motion; it shall not be debated. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

8.9 MOTION TO AMEND

A motion to amend shall be debated only as to the amendment. A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the

intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable, and voted on before a vote on the amendment. Amendments shall be voted first, then the main motion as amended.

8.10 MOTION TO CONTINUE

Motions to continue to a definite time shall be amended and debated as to propriety of postponement and time set.

9. VOTING PROCEDURES

9.1 VOTING PROCEDURE

In acting upon every motion, the vote shall be taken by voice or roll call or any other method by which the vote of each Committee member present can be clearly ascertained. The vote on each motion shall then be entered in full upon the record. The order of voting shall be alphabetical with the Chair voting last. The Committee Secretary shall call the names of all members seated when a roll call vote is ordered or required. Members shall respond "aye," "no," or "abstain," provided that when a vote other than by voice or roll call is used, any Committee member not audibly and clearly responding "no" or "abstain" or otherwise registering an objection shall have his/her vote recorded as "aye".

9.2 ROLL CALL VOTING

Any resolution or proposed ordinance requires a majority of affirmative votes. A roll call vote shall be used for these changes. Any other question before the Committee shall not require a roll call vote unless demanded by any member. It shall not be in order for members to explain his/her vote during roll call. Any member may change his/her vote before the next order of business.

9.3 FAILURE TO VOTE

Every Committee member should vote unless disqualified for cause.

9.4 RECONSIDERATION

Any Committee member who voted with the majority may move for a reconsideration of any action at the same meeting. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the Committee.

9.5 TIE VOTES

Tie votes shall be lost motions. When all Committee members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless the Committee takes other action to further consider the matter. If a tie vote results at a time when less than all members of the Committee are present, the matter shall automatically be continued to the agenda of the next regular meeting of the Committee, unless otherwise ordered by the Committee.

10. INTERACTION WITH TOWN STAFF

10.1 ADMINISTRATIVE SERVICES

All Committee members shall deal with the assigned department only through the Department Head. No member of any Committee shall, at any time, give orders to any employee of the Town. Three (3) violations of this section will result in a report to the Town Council and could result in a removal from the Committee.

10.2 RECOMMENDATIONS TO STAFF AND ADVICE TO COUNCIL

Department Heads and staff shall take advice and recommendations from his/her assigned Committee only when sitting in a duly convened meeting of the Committee and no individual Committee member shall give any order or instructions to any Town employee. Where Committee advice conflicts with other staff direction, the conflict shall be recorded in a separate memorandum and forwarded to the Town Council through the Town Manager.

10.3 POLICY DETERMINATION

The Town Council instructs the Town Manager in matters of policy. The Town Manager instructs and assigns Town employees. Any action, determination, or omission of the Town Manager shall be subject to review by the Town Council. The Town Council may not overrule, change, or modify any such action, determination, or omission except by the affirmative vote of at least three (3) members of Council, per Section 2.08.070 of the Municipal Code. This Committee is not generally authorized to establish Town policy, but may carry out duties specifically assigned by Council or Code.

Committee members may not make policy recommendations on matters outside of his/her scope of responsibility and should refrain from considering such matters. This is not intended to prevent the Committee from hearing status reports on items of interest outside his/her scope of responsibility as a matter of interest or education.

This Committee may establish their own rules of procedure and conduct provided that said rules may not be in conflict with the resolution. In case of such a conflict, the resolution shall take precedence in all cases.