

# APPEALS PROCEDURES ASSESSMENT

City of Reno, Nevada

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Prepared By

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# 1 Introduction

This memorandum provides the written deliverable for Task 1.3 Appeals Memo. It summarizes the Phase 1 Tasks completed to date, including:

- Task 1.1 Document Review
- Task 1.2 Kickoff Call

This memorandum provides our evaluation of the appeals procedures in the Annexation and Land Development Code (LDC) and recommends several amendments to the appeals procedures, including clarification of appeals for subdivision procedures, for decisions by the Historic Resources Commission, and standing for a person filing an appeal.

## 2 Task 1.1: Document Review

### 2.1 Major Documents

We have reviewed the following documents:

- Article 8 of Chapter 18, particularly focused on § 18.08.307: *Post Decision Actions and Limitations*;
- Other Reno Municipal Code provisions, including the Charter, General Provisions (Title 1) and Building and Construction Regulations (Title 14);
- Reimagine Reno Master Plan; and
- Chapter 278 (Planning & Zoning) of Title 58 of the Nevada Revised Statutes.

### 2.2 Summary of Observations and Plan Guidance

It is important to identify and understand key planning documents during the appeals procedures update process. The two main documents that help shape zoning code revisions are the comprehensive plan and the existing zoning ordinance. These documents provide critical information about the current conditions and future goals for the community.

#### 2.2.1 Reimagine Reno

The City of Reno adopted the current Master Plan, Reimagine Reno, in 2017 and updated the Plan in 2021. The Master Plan does not specifically address appeals procedures.

#### 2.2.2 LDC Appeals Procedures

Chapter 18.08: *Administration and Procedures* provides the primary source for procedures in administering the LDC, including appeals. The LDC helpfully summarizes the decision and appeals bodies for each procedure in Table 8-1: *Summary of Review Procedures*, located at the beginning of Chapter 18.08.

Section 18.08.307(j) provides the detailed standards for appeals in most situations. The LDC cross-references these procedures for appeals for almost all land use procedures. Section 18.08.307(j)(1)a. provides for a direct appeal of four types of administrative decisions to Council:

- Minor deviation;
- Minor conditional use permit;
- Site plan review; and
- Administrative interpretation.

Section 18.08.307(j)(2) provides that all other administrative decisions are immediately appealable to a hearing examiner. § 18.08.307(j)(2). All decisions by the Planning Commission and the hearing examiner are appealable to City Council. § 18.08.307(j)(3). However, some of the specific procedures have appeals provisions that differ from or are inconsistent with the summary of procedures in Table 8.1, are inconsistent with § 18.08.307(j), or are internally inconsistent. These inconsistencies are outlined in Section 4.1: Internal Compliance Review, below.

Each of the subsections in § 18.08.307 provides for standing to appeal for particular “aggrieved parties.” Standing is the term that applies to a person who has a legal right to appeal a matter. Generally, each subsection of § 18.08.307(j) provides that the same groups have standing to appeal. For example, § 18.08.307(j)(1)b.1 provides standing for certain parties to appeal an administrative decision:

- The Mayor;
- Any member of the City Council; and
- Any person or entity aggrieved by an administrative decision.

A similar standing provision applies to appeals to hearing examiners (§ 18.08.307(j)(2)) and appeals of decision by the Planning Commission and the hearing examiner to the City Council (§ 18.08.307(j)(3)). In addition, each subsection provides for additional appeals by other aggrieved parties in the same matter, but also provides that the inclusion of these additional appellants will not delay the hearing.

In general, particular zoning and subdivision procedures throughout the LDC do not provide a separate standard for standing to appeal. However, the sign code includes requirements that a person must submit a statement explaining how they are aggrieved in their appeal application. See §§ 18.05.120 & 18.05.212.

To summarize the current procedures, Table 2.2-1. *LDC Procedures that Reference Appeals* lists the Procedures in the LDC that specifically reference appeals and the provisions of § 18.08.307(j) and also indicate whether each procedure provides its own standing for appeal.

Table 2.2-1. *LDC Procedures that Reference Appeals*

Procedure	LDC Section	References § 18.08.307(j)	Standing Defined?
Neighborhood Planning Area Overlay District – Modifications	18.02.603	Yes	No
New/Unlisted Use Classification	18.03.205	Yes	No
Signs – Administrative Decisions	18.05.120	Yes	Appellant must file statement explaining how aggrieved
Signs – Administrative Decisions	18.05.212	Yes	Appellant must file statement

2. Task 1.1: Document Review

Procedure	LDC Section	References § 18.08.307(j)	Standing Defined? explaining how aggrieved
HRC – Demolition Certificate	18.07.303	No	No
HRC – Certificate of Appropriateness	18.07.304	No	No
Appeal of Staff Decisions	18.08.304	Yes	No
Administrative Interpretations	18.08.502	Yes	No
Site Plan Review	18.08.602	Yes	No
Minor CUP	18.08.604	Yes	No
CUP	18.08.605	Yes	No
Outdoor Dining	18.08.606(a)	Yes	No
Grading	18.08.606(b)	No	No
Demolition	18.08.606(c)	No	No
Building	18.08.606(d)	No	No
Fence or Wall	18.08.606(e)	No	No
Sign	18.08.606(f)	No	No
Mobile Home Park/RV Park	18.08.606(g)	No	No
Tentative Subdivision Map	18.08.702	Yes	No
Final Subdivision Map	18.08.703	Yes	No
Parcel Map	18.08.704	Yes	No
Reversion to Acreage	18.08.705	Yes	No
Boundary Line Adjustments	18.08.706	Yes	No
Abandonment	18.08.707	Yes	No
Variance	18.08.801	Yes	No

2. Task 1.1: Document Review

Procedure	LDC Section	References § 18.08.307(j)	Standing Defined?
Major Deviation	18.08.802	Yes	No
Alternative Equivalent Compliance	18.08.803	Yes	No
Minor Deviation	18.08.804	Yes	No
Development Agreements – Administrative Decisions	18.08.805	Yes	No

Section 18.08.307(j) also provides specific timelines and procedures for the aggrieved party to file an appeal, for the appeal body to hold a hearing, and for the body to render a decision. Table 2.2-2. *Summary of Appeals Procedures* summarizes the appeals procedures in each different scenario provided by § 18.08.307. Section 18.08.307(4) & (5) also provides standards for judicial review of Council decisions by the District Court.

Table 2.2-2. *Summary of Appeals Procedures in § 18.08.307(j)*

	Appeal of Administrative Decisions to Council	Appeal of Administrative Decisions to Hearing Examiner	Appeal of PC and Hearing Examiner Decisions to Council
Applies To	Minor deviation Minor conditional use permit Site plan review Administrative interpretation	All other administrative decisions	All decisions made by Planning Commission and Hearing Examiner
Appeal From	Administrative Decision	Administrative Decision	Planning Commission and Hearing Examiner
Appeal To	Council	Hearing Examiner	Council
Notice of Appeal Due	10 business days from decision	10 business days from decision	10 business days from decision
Time for Hearing on Appeal	Between 14 and 45 days from end of appeal period	Next meeting, at least 14 days after appeal period	Between 14 and 45 days from end of appeal period
Public Hearing?	Yes	Yes	Yes

	Appeal of Administrative Decisions to Council	Appeal of Administrative Decisions to Hearing Examiner	Appeal of PC and Hearing Examiner Decisions to Council
Time to Issue Decision	30 days from hearing	30 days from hearing	30 days from hearing
Next Appeal To	District Court	Council	District Court

As summarized above in Table 2.2-2, some appeals deadlines are measured in “days,” and others are measured in “business days.” Generally, deadlines of 10 days or less are measured in “business days,” and longer deadlines are measured in “days.” This distinction is reasonable, but there is some inconsistency in the terminology. For appeals, § 18.08.307(j)(5)e. defines “business day,” but this definition only applies to the measurement of days for judicial review of First Amendment claims. Chapter 18:09’s definitions also include a definition of “business day” by cross-reference to “working day,” which is defined as “[a] calendar day, exclusive of Saturdays, Sundays, or city recognized holidays. Any other reference to days means calendar days.” The definition of “working day” is similar to the definition of “business day” in § 18.08.307(j)(5)e. but is not identical.

### 3 Task 1.2: Kick-Off Meeting and Coordination

#### 3.1 Communication Plan

An internal communication plan is integral for a successful ordinance revision. White & Smith seeks to communicate regularly by email with City staff and hold phone calls/online meetings every few weeks on an as-needed basis. Although the COVID pandemic may require continued flexibility in communication between the consultant team and staff, it has also increased the capacity of staff, stakeholders, and decisionmakers to participate in virtual meetings. The consultant team and staff effectively communicated on the project’s timeline at an initial project call on October 18, 2022, and a project update call on January 24, 2023.

#### 3.2 Summary of Staff Comments

On January 19, 2023, the consultant team from White & Smith, LLC (Sean Scoopmire) joined staff (Angela Fuss, Grace Mackedon, Jon Shipman, Jasmine Mehta, and Holly Parker) to discuss issues and concerns about the City’s appeals procedures. The major topics discussed were:

- **Consistency.** Staff reports that the City is not consistent in the way it handles appeals. The process differs based on what is being appealed from. Staff would prefer one process section that will allow uniform appeal standards for all situations. Part of this streamlining would clarify how to measure days for appeal. Currently, some deadlines are calculated using “business days,” and others are calculated using “days.” Elected and appointed officials should also be consistent in their application of the appeals standards.
- **Certainty.** The scope of review is not always limited to the specific issues for subject matter of the appeal. The scope of review creates significant uncertainty for applicants and staff, who cannot predict the outcome of appeals based on the established regulations and procedures.

- **Delay.** Staff points out that the goal of many appeals is delay, and the subject matter of the appeal is only a pretext.
- **Equity.** Staff expressed a concern that the appeals procedures are sometimes used to contravene the adopted mission objectives for the City and its commitments to equity, such as affordable housing or infill developments.
- **Standing.** There is not a regular or consistent standard for Council to review standing as a threshold for appeals that is integrated into the overall review process. In appeals from Council decisions to the District Court, the court carefully evaluates the appellant's standing. If the court reverses Council's decision and finds standing existed, there is not a decision on the merits of the issue, which requires Council to reconsider the matter at a much later date. In addition, there is a concern that the current standard for standing to appeal allows activist citizens with little connection to the matter to appeal in order to delay the proposed project.
- **Building Permits.** The problem of pretextual appeals for delay is particularly true for appeals from building permits and grading permits. There is a concern that the discretionary review procedures for most land use applications do not translate well to the objective or non-discretionary standards for building permits. While staff is not interested in adding a new procedure for these appeals, restrictions on standing or the scope of the appeal should be evaluated.
- **Proposed Solutions.** Staff suggested several concepts to resolve some of the issues discussed in the kickoff meeting, include revising the LDC to clarify standing and the scope of matters that should be considered in an appeal, expanding the application form to require the applicant specify the basis for the appeal in more detail, and increasing the fee for appeals (currently \$55) to ensure that applicants have a significant interest at stake.

## 4 Task 1.3: Analysis of Appeals Procedures

This section evaluates the City's existing appeals procedures to determine internal and external policy and regulatory compliance. The internal compliance review identifies conflicts with other City ordinances and regulations, while the external compliance review focuses on consistency with state and federal regulations and standards for defining the aggrieved party. This section also briefly outlines the approaches other Nevada jurisdictions take to standing for land use appeals. The section then outlines a general approach to draft revised appeals procedures that will achieve the City's goals while complying with other statutory and regulatory requirements.

### 4.1 Internal Compliance Review

In general, the appeals procedures are internally consistent, although there are some internal inconsistencies with and between Table 8-1, § 18.08.307(j), and the text of several specific procedures. The various procedures in the LDC reference § 18.08.307(j) for appeals from almost all zoning and subdivision decisions where Council is not the decision-making body. The LDC helpfully summarizes the decision and appeals bodies for each procedure in Table 8-1: *Summary of Review Procedures*.

Section 18.08.307(j) addresses the procedures for administrative decisions, decisions of hearing examiners, and decisions of the Planning Commission. However, § 18.08.307(j) does not address procedures for appeals of administrative decisions to the Planning Commission or appeals from the HRC to Council.



The internal inconsistencies generally include issues with Table 8-1, § 18.08.307(j), or the text of specific procedures. The following list outlines the inconsistencies in each of these sections of the LDC:

- Inconsistencies in Table 8-1:
  - Table 8-1 lists the incorrect cross reference (§ 18.08.603(e)(3)) for the Minor CUP. The correct reference is 18.08.604.
  - Demolition Permits. Table 8-1 row for § 18.08.606(c) Demolition Permit is blank.
  - Table 8-1 does not include a row for Mobile Home Park/RV Park Permit referenced in § 18.08.606(g).
- Inconsistencies in § 18.08.307(j):
  - Section 18.08.307(j)(1)a. does not reference several direct appeals of administrative decisions to Council allowed by the Code:
    - Sign permits under §§ 18.05.110, 18.05.120, 18.05.212, and 14.16.860
    - Reversion to Acreage under § 18.08.705
  - Section 18.08.307(j)(4) controls an appeal to District Court from a decision by City Council. The section references several appeals processes, including appeals from the Board of Appeal. The City does not have a Board of Appeal. This section also does not reference appeals to City Council directly from staff decisions.
- Inconsistencies in the appeals provisions of specific procedures:
  - Section 14.03.080: *Appeal of Building Official's Decision* references § 18.06.208 instead of the current appeals provisions in § 18.08.307(j). A revision of the reference in this section will correct the oversight.
  - Chapter 18.07: *Historic Preservation* does not reference the general appeals standards of § 18.08.307(j) for appeals from the HRC. Section 18.08.307(j) also does not address the appeals procedures for decisions by the HRC. The summary chart in Table 8-1 indicates that Council is the appeal body for decisions by the HRC on demolition certificates and certificates of appropriateness. Section 18.07.304(d)(11)T clearly provides for an appeal to Council from HRC decisions on certificates of appropriateness. However, § 18.07.303 does not clearly provide for an appeal to Council from HRC decisions on demolition certificates. The LDC should clearly provide for an appeal procedure for demolition certificates decided by the HRC. Section 18.08.307(j) does not include appeals from the HRC to Council. A correction could be accomplished by a cross-reference to § 18.08.307(j) in § 18.07.303 and the addition of appeals from the HRC to Council in § 18.08.307(j)(3). If the City prefers to keep the appeals process currently in place, the unavailability of appeals on demolition certificates could be referenced in Table 8-1.
  - Section 18.08.606(b), Grading Permit, does not include a subparagraph providing for appeal or a reference to § 18.08.307(j). Figure 8-13 indicates an appeal only to a Hearing Examiner is available. This omission implies that an appeal to Council is not available, but an appeal to Council is shown in Table 8-1. The revision should add a paragraph for appeals for grading permits to clarify § 18.08.606(b) in a way similar to § 18.08.606(a)(3)c.
  - Section 18.08.606(c) cross-references Title 14, which does not clearly provide for demolition permits. The requirement for demolition permits should be clarified in Title 14, if they are required. Appeals for demolition permits should be clarified in Title 14 or § 18.08.606(c). If the City prefers to keep the appeals process currently

in place, the unavailability of appeals on demolition certificates could be referenced or clarified in Table 8-1.

- The appeals procedures for signs are confusing because there are different appeals procedures for signs under the LDC and the Building Code. Section 18.08.606(f) cross-references Chapters 16.16 and 18.05, which contain different appeals provisions.
  - Section 14.16.860 (Sign Appeals) provides a different procedure for appeals from the standard appeal provision in Title 14 (in § 14.03.080), which provides for hearing examiner review. In addition, § 14.16.860 includes a procedure for an appeal to the Board of Appeals. The City does not have a Board of Appeals. This should be changed to hearing examiner or made to conform with the standard appeals procedure under Title 14. Section 14.16.860 is also confusing because it provides a different appeals venue depending on whether the appeal relates to the “physical characteristics” of the sign versus the “recommendation of the planning manager.” This distinction does not provide clear guidance on the appeal venue, and there is not a clear rationale for different appeal venues for decisions based on different aspects of the sign. A better practice would be to provide one clear process for appeals on signs.
  - The Sign Code (Chapter 18.05) provides three appeals references, and all provide for a direct appeal to Council. Section 18.05.110(a)(5) provides for an appeal to Council for administrative decisions on temporary signs; § 18.05.110 provides for appeals to Council for administrative decisions on on-premises signs; § 18.05.212 provides for appeals to Council for administrative decisions on off-premises signs. A better practice would be to provide one clear process for appeal of administrative decisions on signs to Council in Chapter 18.05.
- Appeals to the Planning Commission.
  - Figure 8-15 in § 18.08.703: Final Subdivision Map shows a direct appeal to Council, but the text of subparagraph (d)(3) provides for an appeal to the *Planning Commission* and then to City Council. Table 8-1 also shows the appeal to the Planning Commission and to Council. However, § 18.08.307(j) does not provide for a procedure for appeals of administrative decisions to the Planning Commission.
  - Figure 8-16 in § 18.08.704: Parcel Map shows an appeal to the Planning Commission and Council, but subparagraph (d)(3) provides for appeals to the Hearing Examiner and then to City Council. Table 8-1 shows the appeal to the Planning Commission and to Council. However, § 18.08.307(j) does not provide for a procedure for appeals of administrative decisions to the Planning Commission.
  - If the City prefers to maintain the practice of appeals to the Planning Commission on subdivision decisions, a new paragraph providing for appeals to the Planning Commission should be added to § 18.08.307(j). This change would also require a change to the text of § 18.08.307(j)(2)a, which provides that all administrative decisions not made to Council are to be heard by a Hearing Examiner.
- Figure 8-18 in § 18.08.706: Boundary Line Adjustment shows an appeal to Council, but subparagraph (d)(3) provides for appeals pursuant to § 18.08.307(j). Section

18.08.307(j) does not list Boundary Line Adjustments for direct appeal to Council. Therefore, the decision would be appealed to a Hearing Examiner under the appeals procedures in § 18.08.307(j). Either or both of these sections should be revised to conform with the preferred practice.

## 4.2 External Compliance Review

### 4.2.1 The Nevada Revised Statutes Appeals Standards

The Nevada Revised Statutes require that local governments provide an appeals procedure for many different land use decisions. Section 278.3195.1 specifically requires that a local government adopt procedures to allow appeals to the governing body from:

- The Planning Commission;
- The Board of Adjustment;
- A hearing examiner; and
- Other administrative decisions on the “use of land.”

While § 278.3195 mandates that a local government adopt procedures and time limits for appeals to the governing body, jurisdictions have discretion in determining the applicable time limits and standards for these appeals. Section 278.3195 provides that a governing body must adopt an ordinance providing standards for the following topics:

- The time for appeal;
- Procedures for appeal;
- The scope of the decision on appeal; and
- The time to issue a decision.

The Nevada Revised Statutes also provide that many procedures are appealable to the governing body of a jurisdiction. Table 4.2-1. *Land Use Decisions Appealable to the Governing Body* summarizes these requirements and notes whether the LDC provides for an appeal for the particular procedure.

Table 4.2-1. *Land Use Decisions Appealable to the Governing Body*

Procedure	Initial Decision	Nev. Code	Included in LDC?	Citation
Variance	BOA, PC, or Hearing Examiner	278.315.6	Y	18.08.801
CUP or other Special Exceptions	BOA, PC, or Hearing Examiner	278.315.6	Y	18.08.605
Deviations	Director or Other Official	278.319.3	Y	18.08.802 & .804
Tentative and Final Map	PC	278.328	Y	18.08.702
Dedications, etc.	PC, Director, or Other Official	278.380.4	Y	18.08.703

Procedure	Initial Decision	Nev. Code	Included in LDC?	Citation
Subdivision-Parcel Map	PC	278.464.7	Y	18.08.704
Final Map	PC	278.4725.3	Y	18.08.703
Assumption of Maintenance	Likely Governing Body	278.4787.3.(d)	N	18.04.501
Street Abandonment	Governing Body, PC or Hearing Examiner	278.480.5 or .11(c)	Y	18.08.707

Generally, the LDC provides for appeals to Council for each procedure required by the Nevada Revised Statutes. The LDC does not specifically address two inapplicable appeals procedures for Special Use Permits (SUP) and the assumption of maintenance (of roads, landscaped areas, etc.). The LDC does not use the SUP procedure as a land use control, so an appeal provision is not necessary. While the LDC does not clearly address petitions to assume maintenance of infrastructure, the LDC implies that this type of decision is a Council-level decision, so an appeal to Council is not necessary. See § 18.04.501(d)4.

Recent developments in incorporating equity into land use decisions include a movement to limit public meetings for some particular development procedures, including affordable housing initiatives. Some scholars have suggested that wealthy residents with social and political capital influence land use decisions through “overparticipation” at meetings and hearings to prevent needed projects such as affordable housing, multifamily housing, and infrastructure. Anika Singh Lemar, “Overparticipation: Designing Effective Land Use Public Processes,” 90 *Fordham Law Review* 1083 (2021) (available at <http://fordhamlawreview.org/issues/overparticipation-designing-effective-land-use-public-processes/>).

The current conditions for affordable housing in major cities and almost all high-growth regions have caused the planning profession to reconsider the role of public participation for certain permitting reviews. For the past 40 years, the planning profession has generally preferred significant public participation for land use reviews. However, in December of 2022, the American Planning Association adopted an important new Policy Guide entitled “Equity in Zoning” intended to help local governments evaluate and minimize the inequities that are currently associated with zoning. The Policy Guide identifies public hearings as a tool some knowledgeable residents use to the detriment of historically disadvantaged and vulnerable communities, to the point that the Guide concludes that “a public hearing introduces a predictable source of bias into zoning administration.” American Planning Association, *Equity in Zoning Policy Guide*, p. 40 (2023) (available at <https://planning-org-uploaded-media.s3.amazonaws.com/publication/download/pdf/Equity-in-Zoning-Policy-Guidev2.pdf>). The Policy Guide recommends administrative decisions based on objective standards for many procedures and that the local government include objective standards for decisions requiring a public hearing:

**Public Hearing Policy 1. Only require public hearings when there is a genuine need to use discretion in applying zoning criteria and standards to the facts of a specific development proposal.** Where a decision can be made based on clear and objective standards in the zoning ordinance, an administrative decision

will often reduce opportunities for bias to enter the decision-making process. When discretionary decisions require a public hearing, draft objective standards and criteria that avoid unintended negative impacts on historically disadvantaged and vulnerable individuals and neighborhoods. p. 40.

The long-standing principles and attitudes surrounding robust public participation are changing. Each jurisdiction must strike a careful balance that allows effective participation while also not inhibiting projects that will fulfill community priorities and needs. This new policy guide suggests that cities like Reno should consider whether public hearings, such as the current liberal appeals to Council, are appropriate for all development proposals. It is possible that limiting these hearings will streamline the process for initiatives to provide affordable housing and infill development.

#### 4.2.2 Defining Standing for Appeal

The requirement for standing to appeal a local land use decisions comes from several different sources. In general, a person must be “aggrieved” by the decision in order to have standing to appeal, and local governments have the authority to define who is “aggrieved” in the land development code.

Previous cases have interpreted “aggrieved” to mean “when either a personal right or right of property is adversely and substantially affected.” *Hughes' Estate v. First Nat. Bank of Nevada*, 605 P.2d 1149, 1150 (Nev. 1980). Cases have expanded this limited definition and determined that a municipality is also “aggrieved” for appeals in cases involving its own land use code. *City of Reno v. Harris*, 895 P.2d 663 (Nev. 1995).

Section 278.3195 provides expanded standing for anyone who appeared in person, through a representative, or in writing before the primary decision-making body, but this definition is only mandatory in counties exceeding 700,000 in population. In the most detailed analysis of the principles of standing to appeal local land use decisions, the Nevada Supreme Court determined that a local ordinance may expand standing to appeal land use decisions. See *City of N. Las Vegas v. District Court*, 147 P.3d 1109 (Nev. 2006). Therefore, it appears that the City may define standing to appeal in the LDC.

#### 4.2.3 Standing in Other Nevada Jurisdictions

Many Nevada localities have defined standing for appeals in their zoning, subdivision, or land development codes. Table 4.2-2. *Summary of Standing Provisions for Select Jurisdictions* summarizes the applicable appeals standing rule in several major cities in Nevada. The standing provisions are not uniform. Jurisdictions commonly provide appeals standing for 1) the applicant, 2) a person within the mandatory notification radius for the action, 3) a person who commented at the hearing in person or in writing, 4) a government official, and 5) any other “aggrieved” party.

Table 4.2-2. Summary of Standing Provisions for Select Jurisdictions

Jurisdiction	Section	Scope of Standing
Carson City	18.02.012	Standing provided for: 1) The proponent of the action, 2) Any party aggrieved by the action, and 3) Any member of the Board of Supervisors.

Henderson	19.19.6	<p>Standing for the applicant or “aggrieved party.” “Aggrieved party” defined to mean:</p> <ol style="list-style-type: none"> <li>1) Any person who testified at the public hearing;</li> <li>2) Any person who submitted written comments before or during the public hearing;</li> <li>3) Any person who testified or submitted written comments before or during a public hearing through an authorized representative; or</li> <li>4) For administrative decisions, any person who submitted written comments before the end of the appeal period following action.</li> </ol>
Las Vegas	Various	Appeals standing generally allowed for an undefined “aggrieved” person.
	19.16.110	<p>Expands standing for Special Use Permit appeals to:</p> <ol style="list-style-type: none"> <li>1) The applicant,</li> <li>2) Anyone within the notification area, and</li> <li>3) Anyone who appeared in person, through a representative, or in writing before the primary decision-making body.</li> </ol>
North Las Vegas	16.08.150	<p>Subdivision appeals from PC provides standing for:</p> <ol style="list-style-type: none"> <li>1) The appellant,</li> <li>2) The city manager or his designee,</li> <li>3) Any property owner within 300 feet of the subject lot, or</li> <li>4) Any other person who may establish that his property rights are or may be affected by the decision.</li> </ol>
	17.12.040	<p>Zoning appeals provide standing for:</p> <ol style="list-style-type: none"> <li>1) An aggrieved person,</li> <li>2) the City Manager,</li> <li>3) any property owner within a radius as established by NRS, or</li> <li>4) any other person who may establish that his or her property rights are or may be affected by the decision.</li> </ol>
Reno	18.08.307	<p>Appeals standing for:</p> <ol style="list-style-type: none"> <li>1) The Mayor;</li> </ol>

		2) Any member of the City Council; and 3) Any person or entity aggrieved by an administrative decision
Sparks	20.05.013	Defines “aggrieved person” as “one whose personal right or right of property is adversely and substantially affected by the action of the decisionmaker.”

### 4.3 Proposed Approach for Appeals Procedures

We recommend a targeted revision of the current appeals procedures. We propose that staff prepare a draft revision of the appeals procedures with the following concepts in mind:

- Clarify and streamline the procedural standards for appeals, such as measurement of time to appeal, which is sometimes measured in “business days” and sometimes simply in “days.”
- Add a definition of “aggrieved party” to § 18.08.307 to include:
  - The applicant;
  - Any person required to receive notice under 18.08.305: Scheduling and Notice of Public Hearings; and
  - Any other person for whom “a personal right or right of property is adversely and substantially affected.”
- Add standards for the relevance of matters that will be considered in an appeal, primarily based on the standards outlined in the substantive section of the LDC from which the appeal arises.
- Correct the inconsistencies with and between Table 8-1, § 18.08.307(j), and the text of several specific procedures as noted in Section 4.1: Internal Compliance Review.
- Correct cross-reference for appeals in § 14.03.080 of the Building Code.
- Consider other ways to clarify the role Chapter 18’s appeals procedures play in decisions by the Building Official, such as defining standing in a narrower way or specifying the scope of review.
- Clarify appeals for Historic Resources Commission procedures by addition of reference to appeals provisions of § 18.08.307 and in §§ 18.07.303 & .304 and to add treatment of HRC appeals in § 18.08.307. If the City prefers not to allow appeals from demolition certificates by the HRC, § 18.07.303 could clarify that an applicant may not appeal those decisions to Council.
- Add specific checkboxes on the City’s appeals form for the applicant to identify their basis for standing and blanks to describe the nature of their appeal more specifically.

## 5 Conclusion

This memo completes the first phase of a three-phase process that begins with a diagnosis of the existing appeals procedures, continues with staff preparation of the new regulations, and concludes with adoption of the final regulations. Based on the currently available information, we propose a limited revision of the appeals procedures to define standing for appeals, to add standards for relevance in the scope of appeals, to clarify appeals from the Historic Resources Commission and to the Planning Commission, to correct cross-references and internal inconsistencies, and to update the appeals forms the City provides applicants. If City staff agrees

## 2. Task 1.1: Document Review

with this approach, we understand that staff will proceed with drafting the agreed approach for revisions.