

**ORDINANCE NO. \_\_\_\_\_**  
**AN ORDINANCE OF CANYON COUNTY, IDAHO, AMENDING CHAPTER 1,  
ARTICLE 17: LAND USE/LAND DIVISION HEARING PROCEDURES; OF CANYON  
COUNTY CODE OF ORDINANCES; AND SEVERABILITY CLAUSES; AND AN  
EFFECTIVE DATES.**

BE IT ORDAINED by the Canyon County Board of County Commissioners as follows:

**SECTION 1. TITLE:** This ordinance shall be known and cited as the Canyon County Hearing Procedures Update Part I.

**SECTION 2. STRUCTURE:** Titles and subtitles of this ordinance are only used for organization and structure and the language in each paragraph of this ordinance should control with regard to determining the legislative intent and meaning of the Board of County Commissioners.

**SECTION 3. PURPOSE:** The purpose of this ordinance is to amend, adopt and update Chapter 1, Article 17, Land Use/Land Division Hearing Procedures, of the Canyon County Code of Ordinances.

**SECTION 4. AUTHORITY:** This ordinance Chapter 1, Article 17, Land Use/Land Division Hearing Procedures, of the Canyon County Code of Ordinances is enacted pursuant to the authority conferred by Idaho Constitution, Article 12, Section 2, and Idaho Code §§ 39-4116, 31-714, 31-801 and 31-828.

**SECTION 5.** Chapter 1, Article 17, Section 3 is hereby amended as follows:

**01-17-03: DEFINITIONS:**

For purposes of this article, words shall have the following meanings:

**APPLICANT/APPELLANT:** The person or entity seeking a decision from the commission, board or hearing examiner.

**BOARD:** The Board of Canyon County Commissioners.

**COMMISSION:** The Planning and Zoning Commission of Canyon County, Idaho.

**COUNTY:** ~~Canyon County, Idaho.~~

**DIRECTOR:** The Director of the County Development Services Department or his/her designee.

**HEARING EXAMINER:** The county employee or an independent contractor conducting hearings instead of the planning and zoning commission, pursuant to the authority granted by Idaho Code section 67-6520 of the local land use planning act of 1975 and section 07-03-07: of this code.

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~~HEARING OFFICER: The person who may preside over planning and zoning commission hearings and serve as a presiding officer applying the procedural functions established by chapter 7 of this code as amended and this article.~~

INITIAL HEARING BODY: This term refers to the commission, hearing examiner, or director whose decision or recommendation that is before the board for final review.

PRESIDING PARTY: This term includes the board, commission, ~~or~~ hearing examiner ~~or~~ hearing officer.

STAFF: Any Canyon County officer or employee present during the hearing.

**SECTION 6.** Chapter 1, Article 17, Section 5 is hereby amended as follows:

**01-17-05: SUBMISSION OF A PROPOSED DECISION: ACCEPTANCE OF APPLICATION FOR HEARING:**

~~The board encourages any interested party in a hearing before the presiding party to submit a brief synopsis of the matter, argument, and a proposed decision (including findings of fact and conclusions of law, if applicable). Any synopsis, argument or proposed decision must be received by and lodged with the presiding party prior to commencement of the hearing. Failure to submit documents contemplated hereunder shall not prejudice an interested party.~~

A. Staff shall perform a completeness review prior to the official acceptance of an application by the County to determine if the application meets the minimum application requirements of the County. In the event that it is determined that an application is incomplete, the applicant will be notified regarding what is necessary to complete the application and the application returned. In the event that an incomplete application is returned more than two (2) times, additional application fees may be required according to the County's fee schedule. All plans, ordinances or processes in place at the time of the application passes its completeness review will apply.

B. Once it is determined that an applicant is complete, the application materials will be reviewed by County staff for technical compliance with applicable code provisions and notify the applicant of any deficiencies prior to the application being scheduled for review by the hearing body. At a minimum, a case will not be scheduled for hearing until:

1. The application satisfies all application requirements enumerated in the substantive County ordinance(s) governing the application;

2. The application includes all necessary agency comments, as determined by the Director.

3. The application includes any other information or documentation the Director deems necessary for the hearing body's review of the application.

C. After acceptance of the application, the applicant shall diligently pursue any action or information deemed necessary by the Director to prepare their application for hearing. An application shall be closed due to inactivity ninety (90) days after the date where a necessary action or information by the applicant is formally requested by the Director. The Director, at their

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discretion, may grant request for extension of time to complete a necessary action. If an application is closed for inactivity, a new application and the applicable fee will be required. All plans, ordinances or processes in place at the time of the new application will apply.

D. The Director's determination may be appealed in accordance with section 07-05-07, "Appeal Of Director Administrative Decision."

**SECTION 7.** Chapter 1, Article 17, Section 7 is hereby amended as follows:

**01-17-07: CONDUCT OF HEARING: EXHIBITS PRESENTED AT HEARING:**

Hearings before the presiding party shall be conducted in general conformance with the following procedure:

~~—(1) Generally: The presiding party may limit testimony and scope of the hearing as necessary. The presiding party may at any time freely inquire of anyone at the hearing including staff.~~

~~—(2) Report: Hearings before the presiding party shall commence with a report from staff. The report may be written or oral at the pleasure of the presiding party, and may include testimony from witnesses. The report shall contain recommendations and a proposed decision for the presiding party to review, including the proposed findings of fact and conclusions of law in a form directed by the presiding party for such matters, if any. The presiding party shall not be bound by the recommendations of staff.~~

~~—(3) Applicant/Appellant Comments: At the conclusion of staff's comments, if any, the applicant/appellant, and those favoring the applicant/appellant's position shall be allowed an opportunity to present testimony, and other evidence which supports his/her position. An applicant/appellant may be represented by counsel. Except as provided in subsection (5) of this section, at the presiding party's discretion, testimony for and against an application may be presented in rotating order.~~

~~—(4) Opponent And General Comments: When the applicant/appellant has concluded his or her comments, those opposing the applicant/appellant's position or having general questions shall be provided an opportunity to present testimony, documents, or other evidence refuting the other evidence presented on behalf of the applicant/appellant.~~

~~—(5) Applicants/Appellant Rebuttal: When the opponents, if any, have all concluded their comments, the applicant/appellant shall be allowed a brief period for rebuttal.~~

Public comments, exhibits, presentations, or other documents intended to be relied on as part of the record must be received at least twenty (20) days prior to the public hearing to be automatically made part of the record. This deadline is to provide ample time for inclusion in the staff report packet, hearing body review, and full transparency and access for the public. The submission of late documents or other materials does not allow all parties time to address the material or allow sufficient time for public review.

After the materials deadline, any input may be verbally provided at the public hearing to become part of the record.

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**SECTION 8.** Chapter 1, Article 17, Section 9 is hereby amended as follows:

**01-17-09: RECORD CONDUCT OF HEARING:**

~~The staff report shall automatically become part of the record as shall any documents submitted by the applicant/appellant or any opponents, as shall all testimony given at the hearing. At the conclusion of the hearing, the presiding party shall close the record unless the presiding party determines, in its discretion, additional evidence is required, in which event, it may proceed as follows:~~

- ~~—(1) Close the record with the exception of allowing the submission of specifically requested information; or~~
- ~~—(2) Leave the entire record open for the submission of additional evidence to a date certain at which time it will automatically be closed without further action of the presiding party; or~~
- ~~—(3) Continue the hearing to a date certain for the purpose of receiving additional evidence and conducting such further proceedings as may, in its discretion, be advisable.~~

Hearings before the presiding party shall be conducted in general conformance with the following procedure:

Staff Report: The report may be written and/or oral and may be presented at any time in the hearing order at the discretion of the presiding party. The report may contain recommendations and a proposed decision based on evidence reviewed, for the presiding party to consider. The decision and/or recommendations from the initial hearing body will be forwarded unaltered by staff if the application requires an action from the Board. Hearing body may request items of clarification from staff at any time during public testimony, or during deliberation.

(1) Generally: The presiding party may choose to limit testimony and scope of the hearing as necessary. The presiding party may, at any time, freely inquire of anyone at the hearing including staff.

(2) Applicant/Appellant Presentation: Hearings before the presiding party shall commence with a presentation from the applicant or their representative. An applicant/appellant may be represented by counsel. Any presentations shall be provided no later than twenty (20) days prior to the hearing.

(3) Following the Applicant/Appellant Presentation, those favoring the application shall be allowed an opportunity to testify.

(4) Following the those in favor of the application, those neutral to the application shall be allowed an opportunity to testify.

(5) Following the those in neutral to the application, those opposing the application shall be provided an opportunity to testify.

(6) Applicants/Appellant Rebuttal: After public comment has been received from those in favor, natural and/or opposed, the applicant/appellant shall be allowed a brief period for rebuttal.

**SECTION 9.** Chapter 1, Article 17, Section 11 is hereby amended as follows:

**01-17-11: REOPENING THE RECORD:**

~~Prior to issuing a written decision, the presiding party may, for good cause demonstrated, reopen the record for the purpose of receiving additional evidence. An interested party may seek to reopen the record by filing a timely motion to reopen the proceedings containing information therein to demonstrate good cause and paying any costs which will be incurred by the county to comply with applicable law. The presiding parties shall decide an applicant/appellant's motion to reopen the record within five (5) days of the receipt thereof. The presiding party may, within the time allowed herein, reopen the record for good cause on its own motion. If the presiding party determines to reopen the record, it shall thereafter comply with applicable law, if any, governing motions and hearings.~~

The staff report and any staff presentation shall automatically become part of the record as shall any documents submitted by the applicant/appellant or any opponents by the comment deadline. All verbal testimony given at the hearing also shall automatically become part of the record.

Prior to taking testimony at a final hearing, the Board may remand an application/appeal back to the initial hearing body for reconsideration of their decision if the Board determines that the official record is incomplete, or that the application has had substantial additions, amendments or modifications from the application presented to the Commission, Hearing Examiner, or Director or that procedural steps required were not followed. The taking of additional testimony and evidence on remand shall be limited to those issues stated by the Board as per its written directive. Additional notice shall be required. If after hearing the new testimony or evidence, the Commission, Hearing Examiner or Director's decision or recommendation is changed, new findings of fact and conclusions of law shall be sent to the Board for further action

At the conclusion of a hearing, the presiding party shall close the record unless the presiding party determines, in its discretion, additional evidence is required, in which event, it may proceed as follows:

- (1) Close the record with the exception of allowing the submission of specifically requested information; or
- (2) Leave the entire record open for the submission of additional evidence to a date certain, at which time it will automatically be closed without further action of the presiding party; or
- (3) Continue the hearing to a date certain for the purpose of receiving additional evidence and conducting such further proceedings as may, in its discretion, be advisable.

**SECTION 9.** Chapter 1, Article 17, Section 13 is hereby amended as follows:

**01-17-13: DECISION BY PRESIDING PARTY:**

When the record has been closed, the presiding party shall take the matter under advisement for the purpose of deliberating toward a decision on the record. After deliberating, the presiding party may then immediately render a ~~written~~ decision complying with applicable law or may continue the matter to a date and time certain for further deliberation and decision. ~~The commission and the~~

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~~board shall deliberate and make decisions at meetings which comply with the open meetings law, Idaho Code section 74-201 et seq., as may be amended from time to time. The conduct of the hearing examiner and hearing officer are not governed by the open meetings law.~~

**SECTION 10.** Chapter 1, Article 17, Section 15, 17 and 19 are hereby repealed as they are duplicative of Chapter 1, Article 1 of the Ordinance.

**SECTION 11. SEVERABILITY** Should any action or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the article as a whole or a part thereof other than the part declared to be unconstitutional or invalid.

**SECTION 12. EFFECTIVE DATE:** This ordinance shall be and is hereby declared to be in full force and effect upon its passage, approval and publication as provided by law in one issue of the Idaho Press-Tribune and as provided for in Idaho Code §§ 31-715 and 31-715A.

Draft Only

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

CANYON COUNTY BOARD OF COMMISSIONERS

- \_\_\_\_\_ Motion Carried Unanimously
- \_\_\_\_\_ Motion Carried/Split Vote Below
- \_\_\_\_\_ Motion Defeated/Split Vote Below

	Yes	No	Did Not Vote
_____ Commissioner Leslie Van Beek	_____	_____	_____
_____ Commissioner Brad Holton	_____	_____	_____
_____ Commissioner Zach Brooks	_____	_____	_____

ATTEST: RICK HOGABOAM, CLERK

By: \_\_\_\_\_  
Deputy Clerk

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