



# **PLANNING BOARD MEETING**

MAY 15, 2013

# PLANNING BOARD MEETING AGENDA



## Draft Version 2

- Family Split
- Appeals Board
- Home Occupation
- Other edits

# FAMILY SPLIT



**Family Splits:** Concerns on the part of members led staff to create a set of four different options that the Committee could consider:

- No Changes to Existing
  - Current Staff Proposal
  - Make Adjustments to Current (Hybrid)
  - Committee Direct Staff Back to Drawing Board
- **Other Questions/Comments:** Refer to the table providing explanations for addressing each point brought up by the Committee.

# Family Splits



- No Change to Existing: This would retain the following provision:

“...conveyances between husband and wife for estate planning purposes or for purposes or for purposes of marital division are not governed hereunder and are specifically exempted. *Interfamily transfers from a parent to children shall be construed as a tract split. Such conveyances shall not constitute the process of subdivision.*”

**Comment:** The result of this option would be to limit family splits to whatever could be worked out through the existing tract split provisions. These allow only one additional parcel to be created but there is no time frame established.

# Current Staff Proposal

- Use the family splits provisions as currently constituted in draft form.
- See Chapter 5 in the section on Informal Plats for the existing language.

**Comment:** This option still needs to be analyzed and sharpened. The goal is to develop a provision that facilitates genuine family splits but prevents the workaround that allows property owners to avoid the more substantial requirements of formal subdivisions. If the latter can't be achieved, staff would recommend leaving the current language in place for now.

# Hybrid Version

- Draft edits in hybrid model to include:
  - Eliminate timing provisions before and after split
  - Eliminate affidavit asserting family ties
  - Eliminate limitation on conveyance
  - Clarify access to properties using private road or easement

**Comment:** Staff again is seeking a balance of providing a clear path for creating a genuine family split but not allowing any other entity to use this provision for speculative land development.

# Drawing Board

- None of the first three options of interest to the Legislative Committee
- Committee directs staff back to the drawing board for a new draft

**Comment:** If the existing language is not acceptable and the current draft proposal not seen as a good basis for shaping a family split provision, the Committee may wish staff to keep researching best practices for other ideas.

# BOARD OF ADJUSTMENT AND APPEALS (BAA)



## Draft Version 2

1. Organized this Section under 3 headings
  - A. Creation and Appointment
  - B. Organization
  - C. Power and Duties
  
2. Streamlined and Eliminated repetition

# BOARD OF ADJUSTMENT AND APPEALS (BAA)



**§2.08** There shall be a Board of Adjustment and Appeal (BAA) consisting of seven (7) members who shall be residents of Benton County. The Board shall have such powers and duties as are provided by law or ordinance.

# APPEALS BOARD



## A. Creation and Appointment

### 1. Membership and Terms

The terms of office of the members of the Board shall be for two (2) years where four (4) members shall initially be appointed for the full two (2) years and the remaining three (3) members shall initially be appointed for one (1) year. Thereafter all members shall be appointed by the County Judge and Confirmed by the Quorum Court for terms of two (2) years each. The members shall elect their own chairman, who shall serve for one (1) year. No member shall serve more than two (2) consecutive full terms.

# APPEALS BOARD



## 2. Alternate Members

Three (3) alternate members, who shall be residents of the county, shall be appointed by the County Judge and confirmed by the Quorum Court to serve in the absence of, or disqualification of, the regular members. The first two (2) alternates appointed shall serve for terms of two (2) years and the third for one (1) year. Thereafter, all alternates shall be appointed for two-year terms.

# APPEALS BOARD



## 3. Removal and Vacancies

- All members and alternates may be removed for cause by the County Judge, upon written charges after public hearing.
- The vacancy of any member or alternate member shall be filled by appointment of the Judge and confirmation by the Quorum Court for the unexpired term only.

# APPEALS BOARD



## 4. Member Background and Expertise

To the extent practicable and feasible, the Board shall include members with the following background and experience

- One (1) Quorum Court member
- One (1) land use attorney
- One (1) civil engineer, structural engineer, or mechanical engineer
- One (1) architect or landscape architect
- One (1) city or regional planner
- One (1) realtor or developer, and
- One (1) master builder or a person with ten (10) or more years of experience in construction or supervision of construction of buildings

# APPEALS BOARD



## B. Organization

### 1. Officers and Duties

The Board of Adjustment and Appeal shall elect its own presiding officers and adopt rules of procedure in the form of bylaws that are necessary to fulfill its duties. The rules of procedure must be in writing and comply with the Arkansas Open Meetings Law, Statutory land use hearing requirements, and this Ordinance.

A Chairperson, Vice Chairperson, and Secretary shall be elected by the Board from among its membership. The Chairperson, or in his/her absence, the vice Chairperson, shall preside at all meetings.

# APPEALS BOARD



## B. Organization

### 2. Meetings

- Meetings of the Board shall be held **on a regular schedule or** at the call of the chair and at such other times as the Board may determine. Such chair, or in his absence, the acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Agenda items requiring a public hearing shall require sufficient notice as required by law and application deadlines reflect these requirements.

### 3. Required Attendance

- If a member fails to attend three (3) consecutive meetings or misses 20 percent or more of the meetings held during a calendar year, the Judge, upon recommendation by the Chair, may declare the position vacant.

# APPEALS BOARD



## B. Organization

### 4. Quorum

A quorum of the Board shall consist of ..... members.

### 5. Office, Staffing, and Records

- Office - The office of the Board shall be the Planning and Environmental Services Department or as may be otherwise designated by the Judge.
- Staffing - The Director of the Planning and Environmental Services Department must provide the Board of Appeal and Adjustment with staff assistance necessary to enable it to discharge its duties including arrange for its meetings, and perform such other duties, consistent with the provisions of this chapter, as the adopted rules of the Board require .
- Records – The Planning and Environmental Services Department shall be the custodian of the records of the Board of Adjustment and Appeal including all agendas, minutes, and other documents pertaining to the business of the Board.
- It is recommended that the Building Official be given the title of Planning and Building Code Administrator and serve as the primary staff person to the BAA.

# APPEALS BOARD



## C. Power and Duties

1. Appeals **of Interpretation**: To hear and decide appeals where it is alleged there is error, misinterpretation, oversight, or other means of incorrectly applying the provisions of this Ordinance in an order, requirement, decision, or determination made by an administrative official, board, commission, or other body in the administration or enforcement of this Ordinance. This shall include the provisions of the Flood Insurance Program and the provisions of the International Building Code (IBC) as so determined by the respective Chapters pertaining thereto.

# APPEALS BOARD

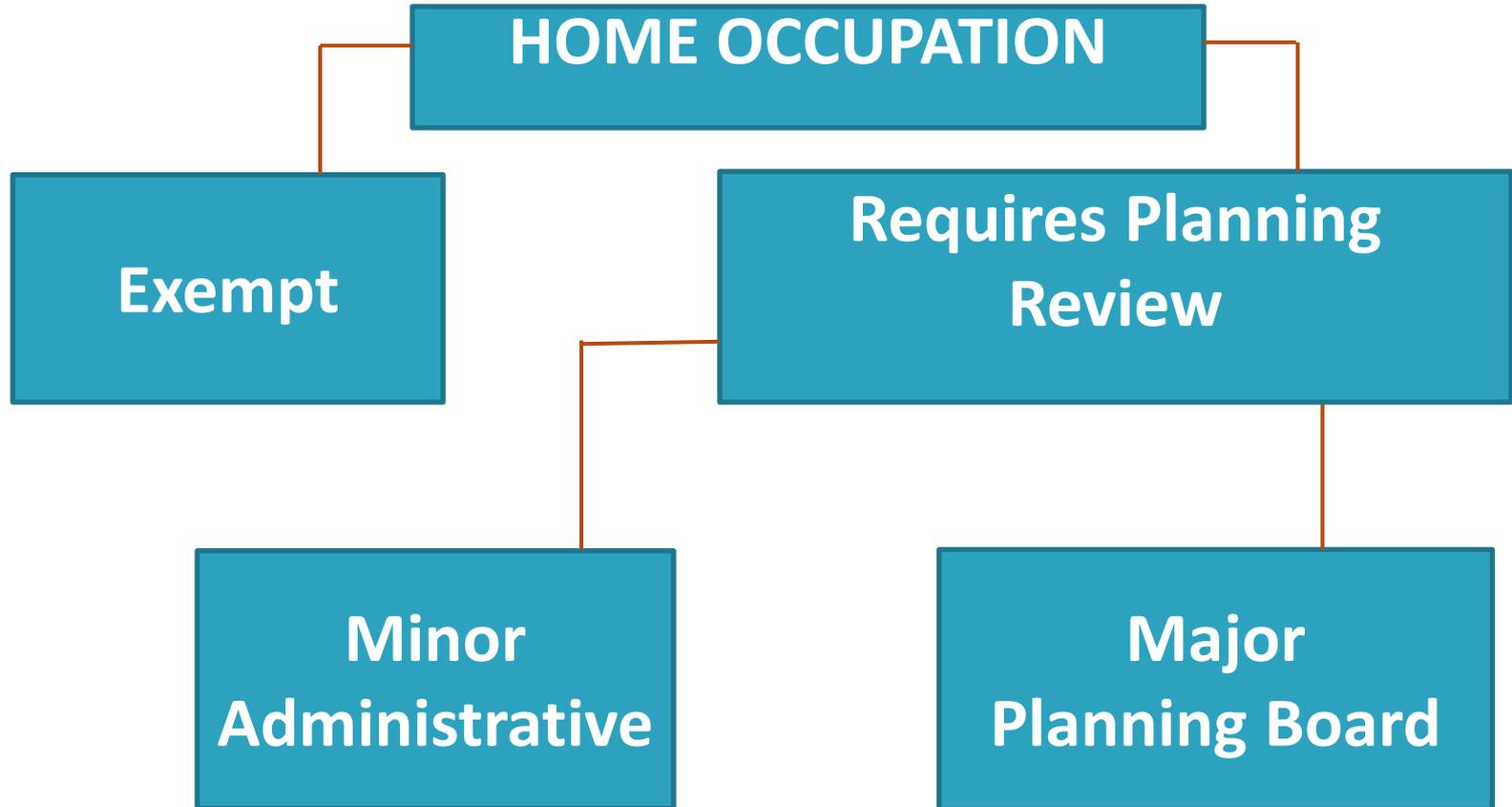


2. Variances: Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, to vary or modify the application of any of the regulations or provisions of this Ordinance relating to the construction or alteration of buildings or the use and development of land, so that the spirit **and intent** of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

3. Use Determinations: To determine, in cases of uncertainty, the classification of any use not specifically enumerated in this chapter.

# HOME OCCUAPTION

## Draft Version 2



# OTHERS



## **Draft Version 2- Suggested Planning Regulations consistent with Arkansas Enabling Code**

- Title 14 Local Government
  - Subtitle 1. General Provisions
  - Subchapter 1- **Sports Shooting Ranges and Facilities**
  - Subchapter 3- **Adult-Oriented Businesses**
  - Subchapter 4- **Commercial medical waste**