

## **ORDINANCE NO. 2025-08**

### **AN ORDINANCE AMENDING THE MUNICIPAL CODE OF PARK CITY TITLE 15, CHAPTER 1, SECTIONS 8, 18 AND 21 REGARDING LAND USE APPEAL AUTHORITIES**

WHEREAS, the City Council held a work session on February 27, 2025, to review options for potential changes to the City's land use appeal authorities, and associated standards;

WHEREAS, the City Council desires efficient administration of its land use codes and due process for land use applicants;

WHEREAS, after receiving informal input from several Board and Commission chairs and advice from the City Attorney's Office, the City Council referred several matters related to land use appeal authorities to the Planning Commission for consideration and possible recommendations for Land Management Code amendments;

WHEREAS, the Planning Commission held a public hearing on April 24, 2025, and forwarded a positive recommendation to the City Council; and

WHEREAS, the proposed Land Management Code amendment is consistent with the purposes of the Utah Municipal Land Use, Development, and Management Act Section 10-9a-102, Purposes – General land use authority.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. FINDINGS. The recitals above are hereby incorporated herein. The City Council finds that the amendments herein improve the efficient administration of City's land use appeal authority process, scope of review, and due process.

SECTION 2. AMENDMENT TO MUNICIPAL CODE OF PARK CITY ("MCPC") LAND MANAGEMENT CODE TITLE 15. CHAPTER 1, SECTION 18. MCPC 15-1-18 is hereby amended as attached on Exhibit A.

SECTION 3. AMENDMENT TO MUNICIPAL CODE OF PARK CITY ("MCPC") LAND MANAGEMENT CODE TITLE 15. CHAPTER 1, SECTIONS 8 AND 21. MCPC 15-1-8 is hereby amended to replace "Appeal Panel" with "Hearing Officer" and MCPC 15-1-21 is hereby amended to remove the hearing notice column for Variances and Appeals to the Appeal Panel.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this 15<sup>th</sup> day of May, 2025.

PARK CITY MUNICIPAL CORPORATION

Signed by:

*Nann Worel*

57775BCB46414E6

Nann Worel, Mayor

Attest:

DS



DocuSigned by:

*Michelle Kellogg*

E5F905BB533F431...

City Recorder

Approved as to form:

Signed by:

*Margaret Plane*

11B5B6F4ACF34C7...

City Attorney's Office

## EXHIBIT A

### 15-1-18 Appeals And Reconsideration Process

- A. **STAFF**. Final Action by either the Planning Director or Planning Staff may be appealed to the Planning Commission. Final Action regarding the Design Guidelines for Historic Districts and Historic Sites shall be reviewed by the ~~Board of Adjustment~~ Historic Preservation Board.
- B. **HISTORIC PRESERVATION BOARD (HPB)**. The City or any Person with standing adversely affected by any decision of the Historic Preservation Board may be appealed to the Board of Adjustment, except that HPB Final Action on appeals from Planning Staff or the Planning Director regarding the Design Guidelines for Historic Districts and Historic Sites may be appealed to District Court in Summit County.
- C. **PLANNING COMMISSION**. The City or any Person with standing adversely affected by a Final Action by the Planning Commission on appeals of Staff action may petition the District Court in Summit County for a review of the decision. Final Action by the Planning Commission concerning Conditional Use permits (excluding those Conditional Use permits decided by Staff and appealed to the Planning Commission; final action on such an appeal shall be appealed to the District Court) and MPDs may be appealed to a City Land Use Hearing Officer ~~the Appeal Panel~~. Only those decisions in which the Planning Commission has applied a land Use ordinance to a particular Application, Person, or Parcel may be appealed to an appeal authority.

1. **~~APPEAL PANEL MEMBERSHIP AND~~ LAND USE HEARING OFFICER**

**APPOINTMENT AND QUALIFICATIONS.** The Appeal Panel shall have ~~three (3) members. The decision to appoint and the appointment of the~~ Land Use Hearing Officer Appeal Panel shall be made by the City Council ~~at a duly noticed public meeting after publicly noticed request for~~ qualifications. Qualifications shall include a weighted priority for the following: ~~Park City or Area residency, five years or more of prior~~ experience in an adjudicative or local government land use position, ~~and/or a legal or planning degree.~~ A Land Use Hearing Officer Each member of the Appeal Panel shall have the ability to:

- a. Conduct quasi-judicial administrative hearings in an orderly, impartial and highly professional manner.
- b. Follow complex oral and written arguments and identify key issues of local concern.
- c. Master non-legal concepts required to analyze specific situations.
- d. Absent any conflict of interest, render findings and determinations on cases heard, based on neutral consideration of the issues, sound legal reasoning, and good judgment.

2. **PROCESS.** Any hearing before the a Land Use Hearing Officer Appeal Panel shall be recorded and may be held electronically upon the approval of the Land Use Hearing Officer ~~publicly noticed., include a public hearing, and meet all requirements of the Utah Open and Public Meetings Act.~~ The City Recorder or designee shall maintain a written record of the hearing

and Final Action. Any appeals pending at the time this section is adopted, or filed before September 15, 2025, will be heard by outside counsel to the former Appeal Panel unless a Hearing Officer has been appointed under subsection C of this section.

3. **TERM.** The City Council shall appointment of Land Use Hearing Officer(s) the Appeal Panel. The appointment of the individual members of the panel shall be for terms of three (3) years.

D. **STANDING TO APPEAL.** The following ~~haves~~ standing to appeal a Final Action:

1. A Land Use Applicant: a property owner, or the property owner's designee, who submits a Land Use Application regarding the property owner's land.  
~~Any Person who submitted written comment or testified on a proposal before the Planning Department, Historic Preservation Board or Planning Commission;~~
2. An Adversely Affected Party: a person other than a Land Use Applicant who:
  - a. ~~The Owner of~~ owns Property within three hundred feet (300') of the boundary of the subject site; or
  - b. will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the Land Use Decision.
3. A Property Owner, Business Owner, or Resident Who Commented: a person who submitted written comment or testified on a proposal before

the Planning Department, Historic Preservation Board, or Planning Commission and is also either:

- a. a person who owns real property within Park City municipal boundaries; or
- b. a person who owns a business that operates within Park City municipal boundaries; or
- c. a person who is a resident of Park City. A resident is a person who is registered to vote in the Park City municipal boundaries and who resides within Park City municipal boundaries at the time the comment is submitted.

4. ~~Any City official, Board or Commission having jurisdiction over the matter;~~  
and

5. ~~The Owner of the subject Property.~~

E. **TIMING**. All appeals must be made within ten (10) calendar days of the Final Action except for an appeal from a decision by the historic preservation authority which is a decision by Staff regarding the Design Guidelines for Historic Districts and Historic Sites or a decision by the Historic Preservation Board regarding a land use application, the applicant may appeal the decision within thirty (30) days after the day on which the historic preservation authority issues a written decision. The reviewing body, with the consultation of the appellant, shall set a date for the appeal. All appeals shall be heard by the reviewing body authority within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.

- F. **FORM OF APPEALS**. Appeals to the Planning Commission, Board of Adjustment, or Historic Preservation Board must be filed with the Planning Department. Appeals to a Land Use Hearing Officer ~~the Appeal Panel~~ must be filed with the City Recorder. Appeals must be by letter or petition, and must contain the name, address, and telephone number of the petitioner; the petitioner's relationship to the project or subject Property; and a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken. The Appellant shall pay the applicable fee established by resolution when filing the appeal. The Appellant shall present to the appeal authority every theory of relief that it can raise in district court. ~~The Appellant shall provide courtesy mailing to all parties who received mailed notice for the action being appealed within fourteen (14) days of filing the appeal.~~
- G. **BURDEN OF PROOF AND STANDARD OF REVIEW**. The appeal authority shall act in a quasi-judicial manner. The appellant has the burden of proving that the land use authority erred. The appeal authority shall review factual matters on the record, with ~~de novo, without~~ deference to the land use authority ~~determination of factual matters~~. The appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application. All appeals must be made in writing. Review of petitions of appeal shall ~~include a public hearing and~~ shall be limited to consideration of only those

matters raised by the petition(s)., unless the appeal authority grants either party approval to enlarge the scope of the appeal to accept information on other matters. New evidence may be received so long as it relates to the scope of the appeal. The land use authority may not review discretionary or quasi-legislative approvals pursuant to the zoning ordinance, including but not limited to granting additional height, setbacks, or parking exceptions pursuant to performance zoning or site improvements in MPD and AMPD applications. Appeals of such determinations shall be directly to District Court in Summit County.

H. **NON-ADVERSARIAL PROCESS**. For all appeals before a Land Use Hearing Officer ~~the Appeal Panel~~, and any Board or Commission, the following shall apply:

1. The procedural hearings and reviews established by the City's regulatory procedures does not adopt or utilize in any way the adversary criminal or civil justice system used in the courts.
2. The role of City staff, including legal staff, is to provide technical and legal advice and professional judgment to each appeal authority ~~decision making body~~, as they are not advocates of any party or position in a dispute, notwithstanding the fact that their technical and legal advice and professional judgment may lead them to make recommendations concerning the matter.
3. In the absence of clear evidence in the record that a staff member has lost impartiality as a technical adviser, the City's need for consistent, coherent and experienced advisers outweighs any claims of bias by the applicant.



I. **WRITTEN FINDINGS REQUIRED.** The Land Use Hearing Officer shall prepare, or the appeal authority shall direct staff to prepare, detailed written Findings of Fact, Conclusions of Law and the Order.

J. **APPEAL PANEL LAND USE HEARING OFFICER ACTION ON APPEALS.**

1. The Land Use Hearing Officer ~~Appeal Panel~~, with the consultation of the appellant and City staff, shall set a date for the appeal.
2. The City Recorder shall notify the Property Owner and/or the Applicant of the appeal date. The City Recorder shall obtain the findings, conclusions and all other pertinent information from the Planning Department and shall transmit them to the Land Use Hearing Officer ~~Council~~.
3. The Land Use Hearing Officer ~~Appeal Panel~~ may affirm, reverse, or affirm in part and reverse in part any properly appealed decision of the Planning Commission. The Land Use Hearing Officer ~~Appeal Panel~~ may remand the matter to the appropriate body with directions for specific Areas of review or clarification. ~~Appeal Panel review of petitions of appeal shall include a public hearing and be limited to consideration of only those matters raised by the petition(s), unless the Panel by motion, enlarges the scope of the appeal to accept information on other matters.~~
4. Staff The Land Use Hearing Officer must prepare written findings within fifteen (15) working days of the hearing ~~Appeal Panel vote~~ on the matter.

K. **CITY COUNCIL RETAINS FINAL AUTHORITY CALL-UP.** Subject to the requirements of Utah Code Sections 10-9a- 532(2)(a)(iii) and 10-9a-804, as amended, the City Council may modify any Final Action of any land use

application by settlement, development agreement, or consent agreement. Such approvals must be at an open, public meeting..

~~Within fifteen (15) calendar days of Final Action on any project, the City Council, on its own motion, may call up any Final Action taken by the Planning Commission or Planning Director for review by the Appeal Panel. The call-up shall require the majority vote of the Council. Notice of the call-up shall be given to the Chairman of the Commission and/or Planning Director by the Recorder, together with the date set by the Council for consideration of the merits of the matter. The Recorder shall also provide notice as required by Sections 15-1-12 and 15-1-18 (K) herein. In calling a matter up, the Council may limit the scope of the call-up hearing to certain issues. The City Council, with the consultation of the Applicant, shall set a date for the call-up. The City Recorder shall notify the Applicant of the call-up date. The City Recorder shall obtain the findings, and all other pertinent information and transmit them to the Council.~~

- L. **NOTICE**. There shall be no additional notice for appeals of Staff determination other than listing the matter on the agenda, unless notice of the Staff review was provided, in which case the same notice must be given for the appeal. Notice of appeals of Final Action by the Planning Commission and Historic Preservation Board; notice of all appeals to the Hearing Officer Appeal Panel, or reconsiderations, ~~or call-ups~~ shall be given as provided in Section 15-1-21. by:

- ~~1. Publishing the matter once at least fourteen (14) days prior to the first hearing in a newspaper having general circulation in Park City;~~

- ~~2. Mailing courtesy notice at least fourteen (14) days prior to the first hearing to all parties who received mailed courtesy notice for the original action.~~
- ~~3. Posting the Property at least fourteen (14) days prior to the first hearing; and~~
- ~~4. Publishing notice on the Utah Public Notice Website at least fourteen (14) days prior to the first hearing.~~

M. **STAY OF APPROVAL PENDING REVIEW OF APPEAL**. Upon the filing of an appeal, any approval granted under this Title will be suspended until the appeal body, pursuant to this Section 15-1-18 has acted on the appeal.

N. **APPEAL FROM THE ~~HEARING OFFICER~~ APPEAL PANEL**. The Applicant or any Person aggrieved by City action on the project may appeal the Final Action by the ~~a Land Use Hearing Officer~~ Appeal Panel to a court of competent jurisdiction. The decision of the ~~a Land Use Hearing Officer~~ Appeal Panel stands, and those affected by the decision may act in reliance on it unless and until the court enters an interlocutory or final order modifying the decision.

O. **RECONSIDERATION**. The City Council, and any Board or Commission, may reconsider at any time any legislative decision upon an affirmative vote of a majority of that body. The City Council, and any Board or Commission, may reconsider any quasi-judicial decision upon an affirmative vote of a majority of that body at any time prior to Final Action. Any action taken by the deciding body shall not be reconsidered or rescinded at a special meeting unless the number of members of the deciding body present at the special meeting is equal to or

greater than the number of members present at the meeting when the action was approved.

## HISTORY

*Adopted by Ord. [00-25](#) on 3/30/2000*

*Amended by Ord. [06-22](#) on 4/27/2006*

*Amended by Ord. [09-10](#) on 3/5/2009*

*Amended by Ord. [09-23](#) on 7/9/2009*

*Amended by Ord. [10-15](#) on 4/15/2010*

*Amended by Ord. [12-37](#) on 12/20/2012*

*Amended by Ord. [14-37](#) on 7/17/2014*

*Amended by Ord. [15-35](#) on 10/12/2015*

*Amended by Ord. [15-53](#) on 12/17/2015*

*Amended by Ord. [16-15](#) on 3/24/2016*

*Amended by Ord. [2016-44](#) on 9/15/2016*

*Amended by Ord. [2017-04](#) on 2/16/2017*

*Amended by Ord. [2017-42](#) on 8/3/2017*

*Amended by Ord. [2018-46](#) on 8/2/2018*

*Amended by Ord. [2020-34](#) on 7/9/2020*

*Amended by Ord. [2022-16](#) on 5/26/2022*

*Amended by Ord. [2023-36](#) on 7/13/2023*