

Project Title: Removing public hearing requirements for appeals of land use decisions and variances as required by Utah Code.

Petition: PLNPCM2025-00327

Version: Planning Commission Draft

Date Prepared: April 2, 2025

Recommended by Planning Commission: Scheduled for April 23, 2025

This proposed ordinance makes the following amendments as necessary to comply with House Bill 368 (HB 368), adopted by the Utah Legislature in 2025 and that goes into effect on May 7, 2025. HB 386 prohibits cities from holding public hearings for appeals of land use decision and variances. The city is required to adhere to the provisions of Utah Code.

- Section 1: Amends section 21A.16.030.G to remove the requirement for a public hearing for appeals of administrative decisions and replace the public hearing with a public meeting. The modifications include adding noticing requirements for the public meeting.
- Section 2: Amends section 21A.16.030 H by clarifying the timing of the appeals hearing officer to making a decision provided the appellant, city, and original applicant (if different than the appellant) agree to a decision in a different timeframe.
- Section 3: Amends section 21A.16.030.I adds provision to submit written evidence for appeals of administrative decisions.
- Section 4: Amends section 21A.16.030.K clarifies that the appeals hearing office may remand a proposal back to the commission who made the original decision.
- Section 5: Amending 21A.18.040.C by removing the requirement for a public hearing for a variance and replacing that with a public meeting, adds noticing requirements for a public meeting, and provides for a method for written evidence to be submitted prior to the public meeting.

Underlined text is new; text with strikethrough is proposed to be deleted. Modifications made as part of the Planning Commission recommendation are highlighted in yellow. All other text is existing with no proposed change.

Section 1: Amending section 21A.16.030 G as follows:

G. Notice Required:

1. ~~Public Hearing: Upon receipt of an appeal of an administrative decision by the zoning administrator, the appeals hearing officer shall schedule and hold a public hearing in accordance with the standards and procedures for conduct of the public hearing set forth in chapter 21A.10 of this title.~~

Public Meeting: Appeals ~~from a decision of the historic landmark commission or planning commission~~ are based on evidence in the record. Therefore, testimony at the appeal meeting shall be limited to the appellant and the respondent.

a. ~~Upon receipt of an appeal of a decision by the historic landmark commission or planning commission, the appeals hearing officer~~ planning director shall coordinate with the appellant and

APPROVED AS TO FORM

Salt Lake City Attorney's Office

Date: _____

By: _____
Katherine D. Pasker, *Senior City Attorney*

respondent to schedule a date for the public meeting ~~schedule a public meeting to hear arguments by the appellant and respondent.~~ The date shall be far enough in advance to provide all parties adequate time to respond to the appeal. Notification of the date, time and place of the meeting shall be given to the appellant and respondent a minimum of twelve (12) calendar days in advance of the meeting.

b. ~~The city shall send notice of the meeting through e-mail or other method chosen by the appeals hearing officer, a minimum of twelve (12) calendar days in advance of the public meeting to any recognized community organization in which the subject property is located.~~ The city shall send notice of the public meeting following the noticing procedure for a public hearing found in 21A.10 of this title.

Section 2: Amending section 21A.16.030 H as follows:

H. Time Limitation: All appeals shall be heard within one hundred eighty (180) days of the filing of the appeal unless more time is agreed to by the appellant, the respondent, and the city. Appeals not heard within this time frame will be considered void and withdrawn by the appellant.

Section 3: Amending section 21A.16.030 I as follows:

I. Standard of Review:

1. The standard of review for an appeal of an administrative decision, other than as provided in subsection 12 of this section, shall be de novo. The appeals hearing officer shall review the matter appealed anew, based upon applicable procedures and standards for approval, and shall give no deference to the decision below. For appeals of administrative decisions, written comments may be submitted by 5:00 p.m. the day prior to the public meeting.

2. An appeal from a decision of the historic landmark commission or planning commission shall be based on the record made below.

a. No new evidence shall be heard by the appeals hearing officer unless such evidence was improperly excluded from consideration below.

b. The appeals hearing officer shall review the decision based upon applicable standards and shall determine its correctness.

c. The appeals hearing officer shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made.

Section 4: Amending section 21A.16.030 K as follows:

K. Action by the Appeals Hearing Officer: The appeals hearing officer shall render a written decision on the appeal. Such decision may reverse or affirm, wholly or in part, refer the matter back to the decision making body, or may modify the administrative decision. A decision shall become effective on the date the decision is rendered.

Section 5: Amending section 21A.18.040 C as follows:

C. ~~Hearing~~ Public Meeting: Upon receipt of a complete application for a variance, the appeals hearing officer shall hold a ~~hearing~~ public meeting with notice provided in accordance with ~~the requirements~~ the

49 noticing procedure for a public hearing found in 21A.10 of this title. Written comments may be submitted
50 by 5:00 p.m. the day prior to the public meeting.

SAMPLE