

**Chapter 21A.16**  
**APPEALS OF ADMINISTRATIVE DECISIONS**

**21A.16.010: Authority**

**21A.16.020: Parties Entitled to Appeal**

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**21A.16.010: AUTHORITY:**

- A. Title 21A Appeals, Applications and Determinations: As described in section 21A.06.040 of this title, the appeals hearing officer shall hear and decide or make determinations regarding:
1. Appeals alleging an error in any administrative decision made by the zoning administrator, the planning commission or the historic landmark commission involving the application, administration, enforcement or compliance with Title 21A of this code;
  2. Appeals from decisions made by the Planning Commission concerning subdivisions or subdivision amendments pursuant to the procedures and standards set forth in Title 20 of this code;
  3. Applications for variances as per chapter 21A.18 of this title,
  4. The existence, expansion or modification of nonconforming uses and noncomplying structures pursuant to the procedures and standards set forth in chapter 21A.38, “Nonconforming Uses and Noncomplying Structures”, of this title, and
  5. Any other matter involving application, administration or enforcement of this code where specifically authorized by a provision of this code.
- B. State and Federal Law: The appeals hearing officer shall not hear and decide or make determinations regarding any of the following:
1. Appeals alleging an error in the application, administration, enforcement or compliance with a provision of state or federal law, including but not limited to provisions of state and federal statutes, state and federal constitutions and state and federal common law;
  2. Appeals alleging a violation of state law or federal law, including but not limited to provisions of state and federal statutes, state and federal constitutions and state and federal common law;
  3. Appeals requesting legal or equitable remedies available under state or federal law.

An appeal seeking the determinations identified in this subsection must be made directly to the district court, as provided for in Utah code section 10-9a-701(4)(e) or its successor.

- C. Requirement to Disclose: An appeal that alleges one or more claims that the hearing officer has authority to hear and decide must include every theory of relief that can be presented in district court, including theories the hearing officer does not have authority to hear and decide.
- D. Mixed Appeals: When an appeal alleges one or more claims that the hearing officer has authority to hear and decide and one or more claims that the hearing officer does not have authority to hear and decide, the appeals hearing officer shall hear and decide only the claims the hearing officer has the authority to hear and decide. The claims the hearing officer does not have authority to hear and decide may be brought in district court on conclusion and exhaustion of all remedies available for the claims the hearing officer has authority to hear and decide.

**21A.16.020: PARTIES ENTITLED TO APPEAL:**

An applicant, a board or officer of the municipality, or an adversely affected party, as that term is defined by Utah code section 10-9a-103 or its successor, may appeal to the appeals hearing officer.

**21A.16.030: PROCEDURE:**

Appeals of administrative decisions by the zoning administrator, historic landmark commission or planning commission shall be taken in accordance with the following procedures:

- A. Form: The appeal shall be filed using an application form provided by the zoning administrator. To be considered complete, the application must include all information required on the application, including but not limited to identification of the decision appealed, the alleged error made in connection with the decision being appealed, and the reasons the appellant claims the decision to be in error. Incomplete applications will not be accepted.
- B. Filing: The application must be submitted as indicated on the form by the applicable deadline, together with all applicable fees.
- C. Time for Filing an Appeal: The deadlines for filing a complete application for appeal are:
  - 1. Administrative decisions made by the zoning administrator: ten (10) days;
  - 2. Planning commission decisions: ten (10) days;
  - 3. Historic landmark commission: thirty (30) days for appeals filed by the applicant, ten (10) days for appeals filed by any other party entitled to appeal.

D. Fees: The application shall be accompanied by the following fees:

1. The applicable fees shown on the Salt Lake City consolidated fee schedule; and
2. The fees established for providing the public notice required by chapter 21A.10 of this title.

All fees are due at the time of filing the appeal. An appeal will not be considered complete until all applicable fees are paid.

E. No Automatic Stay: Filing an appeal with a hearing officer does not stay the decision appealed, unless a provision of this code specifically states otherwise.

F. Requesting a Stay: The hearing officer may grant a request filed by the Appellant, Respondent, or any other party to the appeal, to stay a decision of the zoning administrator, planning commission or historic landmark commission for a specified period of time or until the appeals hearing officer issues a decision, if the requesting party can show a stay is necessary to prevent substantial harm to the requesting party. No request is required, if a provision of this code imposes an automatic stay on the filing of an appeal with a hearing officer.

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.
2. 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 shall schedule a public meeting to hear arguments by the appellant and respondent. 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 give e-mail notification, or other form of notification chosen by the appeals hearing officer a minimum of twelve (12) calendar days in advance of the hearing to any organization entitled to receive notice pursuant to Title 2, chapter 2.60 of this code.

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

I. Standard of Review:

1. The standard of review for an appeal, other than as provided in subsection I2 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.
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.

J. Burden of Proof: The appellant has the burden of proving the decision appealed is incorrect.

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, or may modify the administrative decision. A decision shall become effective on the date the decision is rendered.

L. Notification of Decision: Notification of the decision of the appeals hearing officer shall be sent to all parties to the appeal within ten (10) days of the decision.

M. Record of Proceedings: The proceedings of each appeal hearing shall be recorded. Recordings shall be retained by the planning division for a period that is consistent with city retention policies and any applicable retention requirement set forth in state law.

N. Policies and Procedures: The planning director shall adopt policies and procedures, consistent with the provisions of this section, for processing appeals, the conduct of an appeal hearing, and for any other purpose considered necessary to properly consider an appeal.

O. Matters Delayed: For all matters delayed by the appeals hearing officer, any subsequent written materials shall be submitted a minimum of fourteen (14) days prior to the rescheduled meeting date.

**21A.16.040: APPEAL OF DECISION:**

Any person adversely affected by a final decision made by the appeals hearing officer may file a petition for review of the decision with the district court within thirty (30) days after the decision is rendered.

**21A.16.050: STAY OF DECISION:**

The filing of a petition in district court does not stay the final decision of the appeals hearing officer. A final decision of an appeals hearing officer may be stayed as provided for under Utah code section 10-9a-801(9)(b) or its successor.

SECTION 2. Amending the Text of *Salt Lake City Code* Section 21A.18.120. That section 21A.18.120 Stay of Decision of the *Salt Lake City Code* shall be and hereby is amended to read as follows:

**21A.18.120: STAY OF DECISION:**

A final decision of an appeals hearing officer may be stayed as provided for in section 21A.16.050 or its successor.

SECTION 3. Amending the Text of *Salt Lake City Code* Section 21A.34.020L.3(e). That section 21A.34.020L.3(e) Appeal of Decision, of the *Salt Lake City Code* shall be and hereby is amended to read as follows:

**21A.34.020L.3(e): APPEAL OF DECISION:**

Appeal: Any owner adversely affected by a final decision of the Historic Landmark Commission may appeal the decision in accordance with the provisions of chapter 21A.16 of this title.

SECTION 4. Amending the Text of *Salt Lake City Code* Section 21A.52.120 Appeal of Decision. That section 21A.52.120 Appeal of Decision, of the *Salt Lake City Code* shall be and hereby is amended to read as follows:

**21A.52.120: APPEAL OF DECISION:**

A. Any party aggrieved by a decision of the planning director may appeal the decision to the planning commission pursuant to the provisions in chapter 21A.16 of this title.

B. Any party aggrieved by a decision of the planning commission on an application for a special exception may file an appeal to the appeals hearing officer within ten (10) days of the date of the decision. The filing of the appeal shall not stay the decision of the planning commission pending the outcome of the appeal, except as provided for under section 21A.160.30F.

SECTION 5. Amending the Text of Salt Lake City Code Section 21A.54.160 Appeal of Planning Commission Decision. That section 21A.54.160 Appeal of Planning Commission Decision, of the *Salt Lake City Code* shall be and hereby is amended to read as follows:

**21A.54.160: APPEAL OF PLANNING COMMISSION DECISION:**

Any person adversely affected by a final decision of the planning commission on an application for a conditional use may appeal to the appeals hearing officer in accordance with the provisions of chapter 21A.16 of this title. The filing of the appeal shall not stay the decision of the planning commission pending the outcome of the appeal, except as provided for under section 21A.16.030F of this title.

SECTION 6. Amending the Text of Salt Lake City Code Section 21A.55.070 Appeal of the Planning Commission Decision. That section 21A.55.070 Appeal of the Planning Commission Decision, of the *Salt Lake City Code* shall be and hereby is amended to read as follows:

**21A.55.070: APPEAL OF THE PLANNING COMMISSION DECISION:**

Any person adversely affected by a final decision of the Planning Commission on an application for a planned development may appeal to the Appeals Hearing Officer in accordance with the provisions of chapter 21A.16 of this title. The filing of the appeal shall not stay the decision of the Planning Commission pending the outcome of the appeal, except as provided for under section 21A.16.030F of this title.

SECTION 7. Effective Date. This Ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this \_\_\_ day of \_\_\_\_\_, 2020.

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CHAIRPERSON

ATTEST:

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CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

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MAYOR

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CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 2020.

Published: \_\_\_\_\_.

DRAFT