

Ordinance 15-35

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING CHAPTER 1 GENERAL PROVISIONS AND PROCEDURES; CHAPTERS 2.1 HRL, 2.2 HR-1, 2.3 HR-2, 2.4 HRM, and 2.16 RC; CHAPTER 7.1 SUBDIVISION PROCEDURES; CHAPTER 8 ANNEXATION; CHAPTER 9 NON-CONFORMING USES AND NON-COMPLYING STRUCTURES; AND CHAPTER 10 BOARD OF ADJUSTMENT;

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City;

WHEREAS, the Land Management Code implements the goals, objectives, and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values;

WHEREAS, the City reviews the Land Management Code on a regular basis and identifies necessary amendments to address planning and zoning issues that have come up; to address specific LMC issues raised by Staff, Planning Commission, and City Council; and to align the Code with the Council's goals;

WHEREAS, Chapter 1 provides a description of general provisions and procedures of the Park City's land development and management code that the City desires to revise. These revisions are specifically related to the action and appeals table as well as the notice matrix;

WHEREAS, Chapters 2.1 Historic Residential-Low Density District (HRL), 2.2 Historic Residential (HR-1), 2.3 Historic Residential 2 (HR2), 2.4 Historic Medium Density Residential (HRM) and 2.16 Resort Commercial (RC) provide a description of requirements, provisions and procedures specific to these zoning district that the City desires to revise. These revisions concern setbacks for hot tubs and patios and applicability of the Steep Slope Conditional Use Permit process in these Districts;

WHEREAS, Chapter 7.1 provides a description of requirements, provisions and procedures specific to various subdivision procedures and classifications that the City desires to revise. These revisions concern the requirements, procedure, and notification related to the combination of existing platted condominium units in accordance with State statute;

WHEREAS, Chapter 8 provides a description of requirements, provisions and procedures specific to annexation of property into the Park City Municipal Boundary that the City desires to revise in order to be consistent with State statute;

WHEREAS, Chapter 9 provides a description of requirements, provisions and procedures specific to the regulation and status of existing Non-conforming Uses and qualifying language pertaining to the enforcement of certain non-conforming use and non-complying structure regulations for rental housing and outlines physical changes that can be required to a Structure containing a legal Non-conforming rental housing use. Proposed changes also relate to the maximum percentage of a building that can be voluntarily demolished and still be able to restore the building back to the previous non-conforming use or non-complying condition, and the City desires to revise these regulations to be consistent with State statute;

WHEREAS, Chapter 10 provides a description of the establishment of the Board of Adjustment, powers and duties, review authority, and other provisions and procedures relative to the Board of Adjustment that the City desires to revise to be consistent with State statute and other sections of the LMC. These revisions concern powers and duties related to appeals of Historic Preservation Board decisions, review of appeals, and judicial review of the BOA decision;

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meetings on February 25th, May 27th, June 10th and June 24th, 2015, and on June 24th, 2015 the Planning Commission forwarded a positive recommendation to City Council;

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on July 16, 2015; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the State of Utah Code and the Park City General Plan and to be consistent with the values and goals of the Park City community and City Council, to protect health and safety, to maintain the quality of life for its residents, to preserve and protect the residential neighborhoods, to ensure compatible development, to preserve historic resources, to protect environmentally sensitive lands, and to preserve the community's unique character.

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

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter One (General Provisions and Procedures). The recitals above are incorporated herein as findings of fact. Chapter 1 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit A).

SECTION 2. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.1 (Historic Residential Low Density (HRL)). The recitals above are incorporated herein as findings of fact. Chapter 2.1 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-1).

SECTION 3. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.2 (Historic Residential (HR-1)). The recitals above are incorporated herein as findings of fact. Chapter 2.2 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-2).

SECTION 4. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.3 (Historic Residential 2 (HR-2)). The recitals above are incorporated herein as findings of fact. Chapter 2.3 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-3).

SECTION 5. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.4 (Historic Medium Density (HRM)). The recitals above are incorporated herein as findings of fact. Chapter 2.24 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-4).

SECTION 6. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.16 (Resort Commercial (RC)). The recitals above are incorporated herein as findings of fact. Chapter 2.24 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-5).

SECTION 7. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 7.1 (Subdivisions). The recitals above are incorporated herein as findings of fact. Chapter 7.1 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit C).

SECTION 8. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 8 (Annexations). The recitals above are incorporated herein as findings of fact. Chapter 8 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit D).

SECTION 9. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 9 (Non-conforming Uses and Non-complying Structure). The recitals above are incorporated herein as findings of fact. Chapter 9 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit E).

SECTION 10. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 10 (Board of Adjustment). The recitals above are incorporated herein as findings of fact. Chapter 9 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit F).

SECTION 11. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this 12th day of October, 2015

PARK CITY MUNICIPAL CORPORATION



Jack Thomas, Mayor

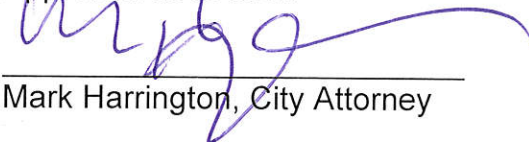
Attest:



Kristin Parker, Deputy City Recorder



Approved as to form:



Mark Harrington, City Attorney

Exhibits (Redlines of specific LMC Sections)

- Exhibit A – LMC Chapter One- General Provisions and Procedures
- Exhibit B – LMC Chapter Two Zoning Districts HRL, HR-1, HR2, HRM, RC
- Exhibit C – LMC Chapter Seven One (7.1)- Subdivision Procedures
- Exhibit D – LMC Chapter Eight- Annexation
- Exhibit E – LMC Chapter Nine- Non-conforming Uses and Non-complying Structures
- Exhibit F – LMC Chapter Ten- Board of Adjustment

**PARK CITY MUNICIPAL CODE
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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 1 - GENERAL PROVISIONS AND PROCEDURES

Chapter adopted by Ordinance No. 00-25

CHAPTER 1 - GENERAL PROVISIONS AND PROCEDURES.

15-1 -1. SHORT TITLE.

This Title shall be known as the Park City Land Management Code (LMC).

15-1 -2. STATEMENT OF PURPOSE.

The LMC is designed, enacted, restated and reorganized to implement the goals and policies of the Park City General Plan, and for the following purposes:

- (A) To promote the general health, safety and welfare of the present and future inhabitants, Businesses, and visitors of the City,
- (B) To protect and enhance the vitality of the City's resort-based economy, the overall quality of life, the Historic character, and unique mountain town community,
- (C) To protect and preserve peace and good order, comfort, convenience, and aesthetics of the City,

(D) To protect the tax base and to secure economy in governmental expenditures,

(E) To allow Development in a manner that encourages the preservation of scenic vistas, environmentally sensitive lands, Historic Structures, the integrity of Historic Districts, and the unique urban scale of original Park City,

(F) To provide for well-planned commercial and residential centers, safe and efficient traffic and pedestrian circulation, preservation of night skies and efficient delivery of municipal services,

(G) To prevent Development that adds to existing Geologic Hazards, erosion, flooding, degradation of air quality, wildfire danger or other conditions that create potential dangers to life and safety in the community or that detracts from the quality of life in the community,

(H) To protect and ensure access to sunlight for solar energy devices, and

(I) To protect or promote moderate income housing.

It is the intention of the City in adopting this LMC to fully exercise all of the powers

granted to the City by the provisions of the Title 10, Chapter 9a of the Utah Municipal Land Use Development and Management Act. Utah Code Annotated, 1991, as amended, and all other powers granted by statute or by common law for the necessary regulation of the Use and Development of land within the City.

(Amended by Ord. No. 06-22)

15-1 -3. CONFLICT.

The provisions of the LMC are in addition to all other City ordinances, the Laws of the State of Utah, the Laws of the United States, and applicable common law. The LMC shall not supersede any private land Use regulations in deeds or covenants, which are more restrictive than the LMC. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law. The City does not enforce private restrictive covenants, nor shall any such covenant have the effect of modifying the regulations herein.

15-1 -4. DEFINITIONS.

All capitalized proper nouns in the text of the LMC are defined terms. Defined terms are located in LMC Chapter 15-15.

15-1 -5. ZONING MAP ADOPTED.

The zoning map for Park City as adopted by the City Council and executed by the Mayor is the Official Zoning Map for Park City. Upon amendment to the Official Zoning Map, the Mayor shall execute a new map, or re-execute the existing map with the amendments noted thereon.

15-1 -6. ZONE DISTRICTS AND ZONE MAP.

In order to carry out the purposes of the LMC, Zoning Districts have been established as set forth in LMC Chapters 15-2 and as identified on the Official Zoning Map. In interpreting the Official Zoning Map, the following standards shall apply:

(A) The zoning boundary lines are intended to conform to existing Property boundary lines when not in a public Right-of-Way, or to follow the center line of public Rights-of-Way, including prescriptive Rights-of-Way, unless the lines are located by specific dimensions, in which case the dimensions shall control.

(B) Where the Zoning District lines appear to have intentionally divided a Lot or Parcel between two (2) or more districts, the applicable zoning for each portion of the Lot or Parcel must be determined by using the scale shown on the map.

(C) There is no minimum Area or diversity of ownership requirement for a zone designation. Neither the size of a Zoning District nor the number of landowners within the district may be used as evidence of the illegality of a Zoning District or of the invalidity of a municipal decision.

(Amended by Ord. No. 06-22)

15-1 -7. AMENDMENTS TO THE LAND MANAGEMENT CODE AND ZONING MAP.

All amendments to the LMC must be made in the following manner:

(A) **APPLICATION**. An Application must be filed first with the Planning Department on a form prescribed for that purpose. The Planning Department, upon its own initiative or at the direction of the City Council, Planning Commission, or Historic Preservation Board may initiate an amendment as provided below.

(B) **HEARINGS BEFORE PLANNING COMMISSION**. The Planning Commission shall hold a public hearing on all amendments to the LMC. Notice of amendment hearings before the Planning Commission shall be given by posting notice in at least three (3) public places within the City and providing at least fourteen (14) days published notice in a newspaper of general circulation within the City. The notice must state generally the nature of the proposed amendment, land affected, and the time, place, and date of the hearing. Once opened, the hearing may be continued, if necessary, without republication of notice until the hearing is closed.

(C) **ACTION BY PLANNING COMMISSION**. Following the hearing, the Planning Commission must adopt formal recommendation(s) to the City Council regarding the matter before it, approving, disapproving, or modifying the proposal. If the Planning Commission fails to take action within thirty (30) days of the public hearing, the City Council may consider the matter forwarded from the Planning Commission with a negative recommendation and may hear the matter.

(D) **HEARING BEFORE CITY COUNCIL**. The City Council must hold a public hearing on all amendments to the LMC. Notice of the hearings shall be given by providing actual notice or posting notice in at least three (3) public places within the City and providing at least fourteen (14) days published notice in a newspaper of general circulation within the City. Once opened the hearing may be continued, if necessary, without republication of notice until the hearing is closed. Following the hearing, the Council must approve, disapprove, or modify and approve the proposal before it. Recommendations of the Planning Commission are advisory only.

(E) **JOINT HEARINGS**. At the option of the City Council, the hearings before the Planning Commission and the Council may be consolidated into a single hearing, provided however, that separate votes are taken by the Commission and the Council. The Commission vote shall be taken first. Notice for any joint hearing shall be given by posting notice in at least three (3) public places within the City and by providing at least fourteen (14) days published notice in a newspaper of general circulation within the City.

(F) **TEMPORARY OR EMERGENCY ZONING**. The City Council may, without prior consideration of or recommendation from the Planning Commission, enact an Ordinance establishing temporary zoning regulations for any part or all of the Area within the municipality if:

- (1) The City Council makes a finding of compelling, countervailing public interest; or

- (2) The area is unregulated.

Those temporary zoning regulations may prohibit or regulate the erection, construction, reconstruction, or alteration of any Building or Structure or Subdivision approval. The City Council shall establish a period of limited effect for the ordinance, not to exceed six (6) months.

(Amended by Ord. No. 06-22)

15-1 -8. REVIEW PROCEDURE UNDER THE CODE.

- (A) No Building Permit shall be valid for any Building project unless the plans for the proposed Structure have been submitted to and have been approved by the Planning, Engineering and Building Departments.
- (B) No new Use shall be valid on any Property within the City unless the Use is allowed.
- (C) No Subdivision shall be valid without preliminary approval of the Planning Commission and final approval by the City Council with all conditions of approval completed.
- (D) Proposals submitted to the Planning Department must be reviewed according to the type of Application filed. Unless otherwise provided for in this LMC, only one (1) Application per type, per Property, will be accepted and processed at a time.
- (E) The Planning, Engineering and Building Departments review all Allowed Uses, Administrative Lot Line Adjustments,

Administrative Permits, and Administrative Conditional Use permits.

(F) Projects in the Historic Districts and Historic Sites outside the Historic Districts are subject to design review under the Design Guidelines for Historic Districts and Historic Sites.

(G) Conditional Uses and Master Planned Developments are initially reviewed by staff and submitted to the Planning Commission for review, final permitting and approval.

(H) Subdivisions and Plat Amendments are initially reviewed by the Planning Commission and submitted to the City Council for final approval.

(I) Variances, Special Exceptions, Non-Conforming Uses and Non-Complying Structures are reviewed by the Board of Adjustment.

(J) No review may occur until all applicable fees have been paid. Final approval is not effective until all other fees including engineering fees have been paid, and following applicable staff review.

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RECOMMENDATION (y) and FINAL ACTION (X) and APPEAL (z)					
	Planning Department	HPB	Board of Adjustment	Planning Commission	City Council
Allowed <u>Use</u>	X				
Allowed- Historic <u>District Design Review</u> (HDDR)	X	z	<u>z (when HPB takes part in the HDDR review)</u>		
Administrative Permits	X			z	
Conditional Use			<u>z (at request of the City Council for City Development applications)</u>	X	z
Conditional Use Admin.	X			z	
<u>Determination of Significance</u>		<u>X</u>	<u>z</u>		
MPD			<u>z (at request of the City Council for City Development applications)</u>	X	z
<u>Determination of Non-Conforming Use and Non-Complying Structures</u>	<u>X</u>		<u>z</u>		
Change of Non-Conforming Use			X		
Plat Amendment				y Recommendation to CC	X
Variance			X		
<u>Subdivision and Condominium</u>				y Recommendation	X

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<u>plans</u>				to CC	
Annexation and Zoning				y Recommendation to CC	X
Zoning Appeal			X		
LMC Amendments				y Recommendation to CC	X

*All Applications shall be filed with the Planning Department. Planning Department staff makes a recommendation to the appropriate decision making body (X).

(Amended by Ord. Nos. 06-22; 09-10; 09-23; 11-05; 12-37)

15-1 -9. ALLOWED USE REVIEW PROCESS.

(A) An Applicant must file a Complete Application, using the forms established by the Planning Department, and include payment of all fees. On any Application to construct a Building or other Improvement to Property which is defined by this Code as an Allowed Use in the Zone in which the Building is proposed, the Planning Department must review the Application to determine whether the proposal:

- (1) is an Allowed Use within the zone for which it is proposed;
- (2) complies with all applicable Development requirements of that zone, including Building Height, Setback, Front, Side, and Rear Yards, and Lot coverage;
- (3) respects Lot Lines of a legally subdivided Lot;

- (4) meets the applicable parking requirements;
- (5) conforms to the Park City Architectural Design Guidelines and/or the Design Guidelines for Historic Districts and Historic Sites, and the architectural review process established for that zone;
- (6) can be adequately serviced by roads, and existing or proposed utility systems or lines; and
- (7) pertains to land in which all tax assessments have been paid.

(B) If approved by the Planning Department Planning Staff, the plans must be forwarded to the Engineering Department and Building Department. The plans shall be reviewed for Building Code compliance and permit issuance procedures. Approval of Allowed Uses must be noted by the issuance of a Building Permit in compliance with the provisions of the Uniform Building Code, as adopted by Park City.

- (1) the land Use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the Application; or
 - (2) in the manner provided by local ordinance and before the Application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the Application as submitted.
- (B) The municipality shall process an Application without regard to proceedings initiated to amend the municipality's ordinances if:
- (1) 180 days have passed since the proceedings were initiated; and
 - (2) the proceedings have not resulted in an enactment that prohibits approval of the Application as submitted.
- (C) An Application for a land Use approval is considered submitted and complete when the Application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.
- (D) The continuing validity of an approval of a land Use Application is conditioned upon the Applicant proceeding after approval to implement the approval with reasonable diligence.

- (B) A municipality is bound by the terms and standards of applicable land Use ordinances and shall comply with mandatory provisions of those ordinances.

(Amended by Ord. No. 06-22)

15-1 -18. APPEALS AND RECONSIDERATION PROCESS.

- (A) **STAFF.** Any decision by either the Planning Director or Planning Staff regarding Application of this LMC to a Property may be appealed to the Planning Commission. Appeals of decisions regarding the Design Guidelines for Historic Districts and Historic Sites shall be reviewed by the Historic Preservation Board as described in 15-11-12(E) unless the Historic Preservation Board participated in the Design Review of a City Development project, pursuant to 15-11-6, in which case any appeal of the decision shall be reviewed by the Board of Adjustment. The Board of Adjustment in such an appeal will have the same scope of authority and standard of review as the Historic Preservation Board would have in such an appeal.

- (B) **HISTORIC PRESERVATION BOARD (HPB).** The City or any Person with standing adversely affected by any decision of the Historic Preservation Board regarding the Design Guidelines for Historic Districts and Historic Sites may petition the District Court in Summit County for a review of the decision. Appeal of all other Final Action by the Historic Preservation Board may be appealed to the Board of Adjustment.

(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 on Conditional Use permits and Master Planned Developments (MPDs) involving City Development may be appealed to the Board of Adjustment at the City Council's request. All other 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 the City Council. When the City Council determines it necessary to ensure fair due process for all affected parties or to otherwise preserve the appearance of fairness in any appeal, the City Council may appoint an appeal panel as appeal authority to hear any appeal or call up that the Council would otherwise have jurisdiction to hear. The appeal panel will have the same scope of authority and standard of review as the City Council. 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 QUALIFICATIONS.** The appeal panel shall have three (3) members. The decision to appoint and the appointment of an 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 position, and/or a legal or planning degree. 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, render findings and determinations.
- (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 an appeal panel shall be publicly noticed, include a public hearing, and meet all requirements of the Utah Open and Public Meetings Act. The appeal panel shall have the same authority and follow the same procedures as designated for the

“City Council” in this section 15-1-18 (G-I). The City Council may decide to appoint an appeal panel for a particular matter at any time an application is pending but the appointment of the individual members of the panel shall not occur until an actual appeal or call up is pending.

(Amended by Ord. No. 10-15; 12-37; 14-37)

(D) **STANDING TO APPEAL.** The following has standing to appeal a Final Action:

- (1) Any Person who submitted written comment or testified on a proposal before the Planning Department, Historic Preservation Board or Planning Commission;
- (2) The Owner of any Property within three hundred feet (300') of the boundary of the subject site;
- (3) Any City official, Board or Commission having jurisdiction over the matter; and
- (4) The Owner of the subject Property.

(E) **TIMING.** All appeals must be made within ten (10) calendar days of the Final Action. 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 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 the City Council 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; his or her relationship to the project or subject Property; and must have 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 required envelopes 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-use authority erred. The appeal authority shall review factual matters de novo and it shall determine the correctness of a-the decision of the land Use-use authority in its interpretation and application of the land Use-use ordinance.

~~Exception. For appeals to the Board of Adjustment, the Board shall review factual matters for correctness and determine the correctness of a decision of the land Use authority in its interpretation and application of the land Use ordinance. The scope of~~

~~review of the Board of Adjustment is limited to issues brought to the land Use authority.~~

~~**Exception.** For appeals to the Board of Adjustment regarding Design Guidelines for Historic Districts and Historic Sites involving City Development projects, the Board shall review factual matters de novo and it shall determine the correctness of the Planning Director or Planning Staff decision in the interpretation and application of the Historic District Design Guidelines for Historic Districts and Historic Sites.~~

(H) WRITTEN FINDINGS

REQUIRED. The appeal authority shall direct staff to prepare detailed written Findings of Fact, Conclusions of Law and the Order.

(I) CITY COUNCIL ACTION ON APPEALS.

- (1) The City Council, with the consultation of the appellant, shall set a date for the appeal.
- (2) The City Recorder shall notify the Owner 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 Council.
- (3) The City Council may affirm, reverse, or affirm in part and reverse in part any properly appealed decision of the Planning Commission. The City Council may remand the matter to the appropriate body with directions for specific

Areas of review or clarification. City Council 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 Council by motion, enlarges the scope of the appeal to accept information on other matters.

- (4) Staff must prepare written findings within fifteen (15) working days of the City Council vote on the matter.

(J) CITY COUNCIL CALL-UP.

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 Council. Call-ups involving City Development may be heard by the Board of Adjustment at the City Council's request. 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 Section 15-1 -12 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.

(K) **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 and notice of all appeals to City Council or call-ups shall be given by:

- (1) Publishing the matter once at least seven (7) days prior to the hearing in a newspaper having general circulation in Park City;
- (2) By mailing courtesy notice at least seven (7) days prior to the hearing to all parties who received mailed courtesy notice for the original action. The City Recorder shall provide noticing for Council call-ups; and
- (3) By posting the property at least seven (7) days prior to the hearing.

Notice of appeals to the Board of Adjustment, except for appeals of staff determination regarding Historic District Design Guidelines for City Development projects where the Historic Preservation Board participated in the design review, shall be given by:

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

(2) By mailing courtesy notice at least fourteen (14) days prior to the hearing to all parties who received mailed courtesy notice for the original action; and

(3) By posting the property at least fourteen (14) days prior to the hearing.

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

(M) **APPEAL FROM THE CITY COUNCIL**. The Applicant or any Person aggrieved by City action on the project may appeal the Final Action by the City Council to a court of competent jurisdiction. The decision of the Council 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.

(N) **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.

(O) No participating member of the appeal panel may entertain an appeal in which he or she acted as the land Use authority.

(Amended by Ord. Nos. 06-22; 09-10; 09-23; 10-15; 14-37)

15-1 -19. CONSTITUTIONAL TAKINGS REVIEW AND APPEAL.

In order to promote the protection of private Property rights and to prevent the physical taking or exaction of private Property without just compensation, the City Council and all Commissions and Boards shall adhere to the following before authorizing the seizure or exaction of Property:

(A) TAKINGS REVIEW PROCEDURE. Prior to any proposed action to exact or seize Property by the City, the City Attorney shall review the proposed action to determine if a constitutional taking requiring "just compensation" would occur. The City Attorney shall review all such matters pursuant to the guidelines established in subsection (B) below. Upon identifying a possible constitutional taking, the City Attorney shall, in a confidential, protected writing, inform the Council, commission or board of the possible consequences of its action. This opinion shall be advisory only. No liability shall be attributed to the City for failure to follow the recommendation of the City Attorney.

(B) TAKINGS GUIDELINES. The City Attorney shall review whether the

action constitutes a constitutional taking under the Fifth or Fourteenth Amendments to the Constitution of the United States, or under Article I, Section 22 of the Utah Constitution. The City Attorney shall determine whether the proposed action bears an essential nexus to a legitimate governmental interest and whether the action is roughly proportionate and reasonably related to the legitimate governmental interest. The City Attorney shall also determine whether the action deprives the private Property Owner of all reasonable Use of the Property. These guidelines are advisory only and shall not expand nor limit the scope of the City's liability for a constitutional taking.

(C) APPEAL. Any Owner of private Property who believes that his/her Property is proposed to be "taken" by an otherwise Final Action of the City may appeal the City's decision to the Takings Appeal Board within thirty (30) days after the decision is made. The appeal must be filed in writing with the City Recorder. The Takings Appeal Board shall hear and approve and remand or reject the appeal within fourteen (14) calendar days after the appeal is filed. The Takings Appeal Board, with advice from the City Attorney, shall review the appeal pursuant to the guidelines in subsection (B) herein. The decision of the Takings Appeal Board shall be in writing and a copy given to the appellant and to the City Council, Commission or Board that took the initial action. The Takings Appeal Board's rejection of an Appeal constitutes exhaustion of administrative remedies rendering the matter suitable for appeal to a court of competent jurisdiction.

(D) TAKINGS APPEAL BOARD.

There is hereby created a three (3) member Takings Appeal Board. The City Manager shall appoint three (3) current members of the Board of Adjustment to serve on the Takings Appeal Board. If, at any time, three (3) members of the Board of Adjustment cannot meet to satisfy the time requirements stated in subsection (C), the City Manager shall appoint a member or sufficient members to fill the vacancies.

15-1 -20. EXACTIONS.

Exaction or exactions may be imposed on Development proposed in a land Use Application if:

(A) An essential link exists between a legitimate governmental interest and each exaction; and

(B) Each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed Development.

(Created by Ord. No. 06-22)

15-1 -21. NOTICE MATRIX.

(See following pages)

NOTICE MATRIX			
ACTION:	POSTED:	COURTESY MAILING:	PUBLISHED:
Zoning and Rezoning	14 days prior to each hearing before the Planning Commission and City Council	14 days to each affected entity.	Once 14 days prior to each hearing before the Planning Commission and City Council.
LMC Amendments	14 days prior to each hearing before the Planning Commission and City Council.	14 days to each affected entity.	Once 14 days prior to each hearing before the Planning Commission and City Council.
General Plan Amendments	14 days prior to each hearing before the Planning Commission and City Council.	14 days to each affected entity.	Once 14 days prior to each hearing before the Planning Commission and City Council.
Master Planned Developments (MPD)	14 days prior to the hearing before the Planning Commission.	14 days prior to the hearing before the Planning Commission, to Owners within 300 ft.	Once 14 days prior to the hearing before the Planning Commission.
Appeals of Planning Director, Historic Preservation Board, or Planning Commission decisions or City Council Call-Up	7 days prior to the date set for the appeal or call-up hearing.	To all parties who received mailed notice for the original Administrative or Planning Commission hearing 7 days prior to the hearing.	Once 7 days before the date set for the appeal or call-up hearing.

NOTICE MATRIX			
ACTION:	POSTED:	COURTESY MAILING:	PUBLISHED:
Conditional Use Permit	14 days prior to the hearing before the Planning Commission.	14 days prior to the hearing before the Planning Commission, to Owners within 300 ft.	Once 14 days prior to the hearing before the Planning Commission.
Administrative Conditional Use Permit	10 days prior to Final Action.	10 days prior to Final Action, to adjacent Property Owners.	No published notice required.
Administrative Permit	10 days prior to Final Action.	10 days prior to Final Action, to adjacent affected Property Owners.	No published notice required.
Variance Requests, Non-conforming Use Modifications and Appeals to Board of Adjustment	14 days prior to the hearing before the Board of Adjustment.	14 days prior to the hearing before the Board of Adjustment, to owners within 300 ft.	Once 14 days prior to hearing before the Board of Adjustment.
Certificate of Appropriateness for Demolition (CAD)	45 days on the Property upon refusal of the City to issue a CAD; 14 days prior to the hearing before the Historic Preservation Board.	14 days prior to the hearing before the Historic Preservation Board, to Owners within 300 ft.	Once 14 days prior to the hearing before the Historic Preservation Board.
Designation of Sites to the Historic Sites Inventory	7 days prior to hearing before the Historic Preservation Board.	-----	Once 7 days prior to hearing before the Historic Preservation Board.