



COUNCIL STAFF REPORT

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Nick Tarbet, Policy Analyst

DATE: July 20, 2021

**RE: Text Amendment: Administrative
Decision Appeals
PLNPCM2020-00352**

PROJECT TIMELINE:

Briefing: July 20, 2021

Set Date: July 20, 2021

Public Hearing: Aug 17, 2021

Potential Action: Aug 24, 2021

ISSUE AT-A-GLANCE

The Council will receive a briefing about a proposal that would amend the Salt Lake City Code pertaining to appeals of administrative decisions. Administrative decisions are made by the Planning Commission, Historic Landmark Commission, or the Zoning Administrator in the administration of the zoning ordinance.

The amendments clarify what matters can be decided by the City's Appeals Hearing Officer, who can appeal decisions, and when an appeal can stay a decision, modify City Code to align with State law, related case law, and make other clarifications to the "appeals chapter of the zoning ordinance, including:

- Clarify that the City Appeals Hearing Officer can only make decisions regarding the interpretation and application of provisions of Salt Lake City Code, not provisions regarding the interpretation and application of provisions of the Utah State Code, the Utah Constitution, Utah common law or federal law.
- Modify the list of allowed appellants to the land use applicant, City board or officer, or "an adversely affected party" to comply with new State Code.
- Eliminate automatic stays of decisions. An appellant would have to specifically request and justify a "stay" (a hold on further proceedings on a matter) when appealing an administrative decision.

The Planning Commission forwarded a unanimous positive recommendation to the City Council.

ADDITIONAL INFORMATION

Key Changes

A short summary of the key changes is provided below. See pages 2-5 of the Planning Commission staff report for full details.

1. Appeals Hearing Officer Authority Over City and State Code Appeals

- Clarify that the City Appeals Hearing Officer can only make decisions regarding the interpretation and application of provisions of Salt Lake City Code, not provisions regarding the interpretation and application of provisions of the Utah State Code, the Utah Constitution, Utah common law or federal law.

2. State Code Updates Narrowing Appellants

- The proposed changes to the City's appeals chapter would revise the list of allowed appellants to comply with the current State Code allowance. The list of allowed appellants includes:
 - The land use applicant
 - City board or officer
 - An adversely affected party

3. Stays of Decisions for Appeals

- Eliminate automatic stays of decisions. An appellant would have to specifically request and justify a stay.
 - Currently City Code specifies that a land use decision is automatically stayed upon submission of an appeal.
 - The proposal would no longer automatically stay a decision and instead require that an appellant formally request a stay.
 - The appellant would also need to justify the stay by showing how it would be necessary "to prevent substantial harm" to the appellant.
 - The Appeals Hearing Officer would then decide on whether to impose a stay.

4. Miscellaneous Changes

- Clarifications to code references and removal of potentially conflicting language.
 - Removal of potentially conflicting code regarding record keeping. City record keeping timeframes are imposed by other City Code and State law and the code change reduces the language to simply refer to those in order to avoid conflicts.
 - Reference the current types of City applications and processes the Appeals Hearing Officer has authority over.
 - Clarify that there is an application and fee for appeals is included in the "Procedure" section.
 - Delete reference to the "Historic Preservation Appeal Authority" shown in the draft. Those are intended to reflect a recently adopted ordinance that deleted that entity, which has just not yet been incorporated or "codified" into the official city zoning text.
 - *All the references to that entity were already deleted by another ordinance (5 of 2020). The strike-throughs shown in the legislative version of the ordinance related to the "Historic Preservation Appeal Authority" are now redundant. When the code was being drafted, those changes just weren't yet codified.*

Policy Questions:

- Are there any stakeholders the Administration reached out to, notifying them about the proposed changes? Would it be helpful if the billboard or cell tower companies were contacted directly to inform them of these changes?
- Are there any other groups who have commonly appealed administrative decisions that could be contacted to work through and/or address potential unintended consequences?