

ORDINANCE 26-09-02

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CITY CODE TO REQUIRE APPEALS TO BE HANDLED BY AN ADMINISTRATIVE LAW JUDGE; MAKING TECHNICAL CHANGES, PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, city code requires amendments to standardize the city appeals process;

WHEREAS, the city uses an administrative law judge for certain appeals and desires to use an administrative law judge for all city appeals; and

WHEREAS, the city council finds that using an administrative law judge for all cities appeals will improve city processes promote the health, safety, and welfare of city residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF KAYSVILLE, UTAH:

SECTION I: Repealer. If any provisions of the City's Code previously adopted are inconsistent herewith they are hereby repealed.

SECTION II: Amendment. “9-3-3 Administration and Appeals” is hereby *amended* to read as follows:

9-3-3 - Administration and Appeals.

1. The ~~S~~storm ~~W~~water ~~O~~fficial is hereby designated as the ~~C~~city's authorized enforcement official and as such shall implement, administer, and enforce the provisions of this ~~T~~itle. Any powers granted or duties imposed upon the ~~S~~storm ~~W~~water ~~O~~fficial may be delegated in writing by the ~~S~~storm ~~W~~water ~~O~~fficial or the ~~C~~city ~~C~~council to persons or entities acting in the beneficial interest of or in the employ of the ~~C~~city. Except as otherwise specifically provided herein, any person affected by a final decision of the ~~S~~storm ~~W~~water ~~O~~fficial interpreting or administering the provisions of this ~~T~~itle may appeal such decision to the ~~C~~city ~~M~~anager. Any decision of the ~~C~~city ~~M~~anager may thereafter be appealed to the ~~C~~ity ~~C~~ouncil administrative law judge in accordance with KCC Title 2, Chapter 8.

SECTION III: Amendment. “9-3a-6 Storm Drain Utility Fee” is hereby *amended* to read as follows:

9-3a-6 - Storm Drain Utility Fee.

1. Each developed parcel of real property in the ~~C~~city shall be charged a storm drain utility fee.
2. The fee shall be based on the number of equivalent residential units (ERUs) contained in the parcel. The city finds that the ERU is the most accurate measurement for determining the amount that each parcel contributes to, benefits from, and otherwise uses the storm drain utility. Based on engineering studies completed in the Davis County area, the ~~C~~city finds and establishes that one ~~(1)~~ ERU equals ~~four thousand (4,000)~~ 4,000 square feet of impervious surface area.

3. The city finds that each single-family residential parcel contributes approximately the same amount of storm water runoff rate as one ~~(1)~~ ERU. All non single-family residential parcels shall pay a multiple of this base rate, expressed in ERUs according to the measured impervious area on the parcel. The city may adopt separate rates for condominiums and other uses that are not easily handled under the standard rate schedule.
4. The amount charged for each ERU shall be established by resolution of the ~~C~~city ~~C~~council. The ~~C~~city ~~C~~council may establish exemptions and credits to the storm drain utility fee by resolution.
5. Any person or entity that believes an error was made in interpretation or application of this Chapter or any storm drain utility rate resolution may appeal to the ~~D~~director of ~~F~~finance ("~~D~~director"). The appeal shall be in writing, shall state any facts supporting the appeal, and shall be made within ~~ten (10)~~20 days of the decision, action or bill being appealed. The ~~D~~director may elect to hold a hearing on the appeal. The ~~D~~director shall decide the appeal within ~~ten (10)~~20 days of when the appeal is filed. If the person or entity is not satisfied with the ~~D~~director's decision, a further appeal may be made to the City Council administrative law judge in accordance with KCC Title 2, Chapter 8. ~~The appeal to the City Council shall follow the same procedures as the appeal to the Director. The City Council's decision shall be final and binding on all parties.~~

SECTION IV: Amendment. "16-1-18 Appeal" is hereby *amended* to read as follows:

16-1-18 - Appeal.

A licensee whose license has been revoked shall have the right to appeal to the ~~City Appeals Authority~~administrative law judge in accordance with KCC Title 2, Chapter 8. Any appeal must be submitted by either the licensee or legal counsel. The following procedures and requirements shall apply:

1. Any appeal must be submitted in writing to the ~~C~~city ~~R~~ecorder with a copy to the ~~L~~icense ~~O~~fficer within ~~ten (10)~~20 business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.
2. Upon the request of the licensee, within three ~~(3)~~ business days, the ~~C~~city will make available any information upon which it relied in making the determination to revoke the license.
3. ~~The Appeals Authority administrative law judge shall conduct a de novo hearing on the appeal in accordance with Section 2-8-4.~~
4. ~~After the ruling of the Appeals Authority, the licensee is deemed to have exhausted all administrative remedies with the City.~~

SECTION V: Amendment. "16-11-15 Appeal" is hereby *amended* to read as follows:

16-11-15 - Appeal.

An ~~A~~pplicant or ~~R~~egistered ~~S~~olicitor whose ~~C~~ertificate has been denied or suspended shall have the right to appeal to the ~~City Council or its designee~~administrative law judge in accordance with KCC Title 2, Chapter 8. Any appeal must be submitted by either the ~~A~~pplicant, the ~~R~~esponsible ~~P~~erson or ~~E~~ntity, or legal counsel for either who: (a) documents the relationship with the ~~A~~pplicant or ~~R~~esponsible ~~P~~erson or ~~E~~ntity; or (b) is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

1. Any appeal must be ~~S~~ubmitted in ~~W~~riting to the ~~C~~ity ~~R~~ecorder with a copy to the ~~L~~icense ~~O~~fficer within ~~ten (10)~~20 business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.
2. Upon request of the ~~A~~pplicant or ~~R~~egistered ~~S~~olicitor, within one ~~(1)~~ business day, the ~~C~~ity will make available any information upon which it relied in making the determination to either deny or suspend the ~~C~~ertificate.
3. The ~~Appeals Officer~~administrative law judge shall review, de novo, all written information submitted by the ~~A~~pplicant or ~~R~~egistered ~~S~~olicitor to the ~~L~~icensing ~~O~~fficer, any additional information relied upon by the ~~L~~icensing ~~O~~fficer as the basis for denial, suspension or revocation, and any additional information supplied by the ~~C~~ity, ~~A~~pplicant or ~~R~~egistered ~~S~~olicitor. Any additional information submitted by any party to the appeal to the ~~Appeals Officer~~administrative law judge shall be simultaneously submitted to the opposing party. If desired, any party shall have three ~~(3)~~ business days to submit rebuttal documentation to the ~~Appeals Officer~~administrative law judge regarding the additional information submitted by the opposing party.
- ~~4. The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in KCC 16-11-15, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.~~
 - ~~a. The denial or suspension of the Certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the Applicant or Registered Solicitor's Certificate.~~
 - ~~b. If the written appeal and information submitted indicates that the Licensing Officer properly denied or suspended the certificate of the Applicant or Registered Solicitor, the denial or suspension of the Certificate shall be affirmed and constitute a determination that the suspended Certificate is revoked.~~

~~e. The decision of the Appeals Officer shall be delivered to the Applicant or Registered Solicitor by the means designated in the completed Application, or as otherwise agreed upon when the Appeal was filed.~~

~~4. After the ruling of the Appeals Officer, the Applicant or Solicitor is deemed to have exhausted all administrative remedies with the City.~~

4. The denial or suspension of the certificate shall be reversed by the administrative law judge if upon review of the written appeal and information submitted, the administrative law judge finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.

5. If the written appeal and information submitted indicates that the licensing officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.

5-6. Nothing herein shall impede or interfere with the ~~A~~applicant's, ~~S~~solicitor's, or ~~C~~city's right to seek relief in a court of competent jurisdiction.

SECTION VI: Amendment. "16-12-10 Revocation" is hereby *amended* to read as follows:

16-12-10 - Revocation.

1. The ~~C~~city may revoke a license if a cause of suspension in KCC 16-12-9 occurs and the licensee has been suspended within the preceding ~~twelve (12)~~12 months.
2. The ~~C~~city shall revoke a license if it determines that:
 - a. A licensee gave false or misleading information in the material submitted during the application process;
 - b. A licensee knew, or should have known, that possession, use, or sale of controlled substances occurred on the premises;
 - c. A licensee knew, or should have known, that prostitution occurred on the premises;
 - d. A licensee knew, or should have known, the sexually oriented business operated during a ~~period of~~ time when the licensee's license was suspended;
 - e. A licensee knew, or should have known, that any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act occurred in or on the licensed premises;

- f. A licensee knew, or should have known, that obscene materials, child pornography in any form, or any other contraband is or was on the licensed premises; or
 - g. A licensee is delinquent in payment to the ~~E~~city, ~~E~~county, or ~~S~~tate for any taxes or fees past due;
 - h. A licensee is convicted of any specified criminal activity.
3. The ~~E~~city may revoke or suspend a license if any employee is convicted of any specified criminal activity.
 4. When the ~~E~~city revokes a license, the revocation shall continue for one ~~(1)~~ year and the licensee shall not be issued a sexually oriented business license for one ~~(1)~~ year from the date the revocation became effective. If, subsequent to revocation, the ~~E~~city finds that there are substantial mitigating factors, or substantial corrective measures have been employed by the licensee, the applicant may be granted a license if at least ~~ninety (90)~~ 90 days have elapsed since the date the revocation became effective. An example of substantial mitigating factors would be the willful acts of an employee or customer disregarding the directions of the licensee. An example of substantial corrective measures would be the termination of an offending employee or prohibiting the return of an offending patron.
 5. If any licensee has a license revoked three ~~(3)~~ times within any five ~~(5)~~ year period, said licensee will thereafter be precluded from regaining any such license.
 6. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may appeal said decision to the ~~City Council~~ administrative law judge in accordance with KCC Title 2, Chapter 8. Any such appeal shall be in writing and submitted to the office of the ~~City Recorder~~ within ~~fifteen (15)~~ 15 days of the ~~decision~~ date of the decision appealed from. ~~The City Council may review the matter on the record or may conduct a hearing. The City Council shall issue a decision within thirty (30) days of receiving the appeal. Any appeal thereafter shall be to the District Court.~~ Unless either party obtains an injunction or mandamus, the status quo ante will be maintained during the appeal process, however, additional enforcement actions will not be precluded thereby.

SECTION VII: Amendment. “16-13-8 Appeal” is hereby *amended* to read as follows:

16-13-8 - Appeal.

An ~~A~~applicant whose license has been denied, suspended or revoked shall have the right to appeal to the ~~City Council or its designee (Appeals Authority)~~ administrative law judge in accordance with KCC Title 2, Chapter 8. Any appeal must be submitted by either the ~~A~~applicant or legal counsel. The procedures and requirements in KCC 16-1-18, Appeal, of this Title shall apply.

SECTION VIII: Severability. If any section, subsection, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION IX: Effective Date. This ordinance, in accordance with changes deemed necessary due to recent statutory modifications, while also being necessary for the peace, health, and safety of the city, shall become effective immediately upon posting.

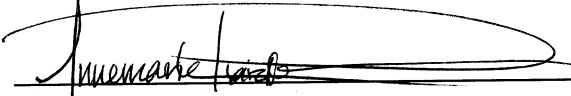
PASSED AND ADOPTED by the City Council of Kaysville, Utah, this 3rd day of September, 2026.





Tamara Tran, Mayor

ATTEST:



Annemarie Plaizier, City Recorder