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ANDREA ALLEN
UTAH COUNTY RECORDER
2025 May 15 09:09 AM FEE 0.00 BY AC
RECORDED FOR UTAH COUNTY COMMUNITY DEVE

ORDINANCE NO. 2025-412

AN ORDINANCE AMENDING CHAPTERS 8 AND 16 OF THE UTAH COUNTY LAND USE ORDINANCE RELATED TO THE CREATION AND DESIGNATION OF AN ADMINISTRATIVE LAW JUDGE TO ACT AS THE APPEAL AUTHORITY FOR ALL DESIGNATED APPEAL APPLICATIONS, ALONG WITH ASSOCIATED ANCILLARY CHANGES

WHEREAS, the Utah County Planning Commission has initiated a review of Chapters 8 and 16 of the Utah County Land Use Ordinance (UCLUO), related to the creation and designation of an administrative law judge to act as the appeal authority for all designated appeal applications, along with associated ancillary changes; and

WHEREAS, the Planning Commission addressed the proposed amendment to the Utah County Land Use Ordinance during a regularly scheduled meeting of the Planning Commission on April 15th, 2025, held a public hearing regarding the proposed amendment, and made a recommendation to the Board of County Commissioners regarding the proposed amendment; and

WHEREAS, the Board of County Commissioners has received and carefully reviewed the recommendation from the Planning Commission regarding the proposed amendment, and the minutes from the Utah County Planning Commission meeting and public hearing regarding the proposed Utah County Land Use Ordinance amendment; and

WHEREAS, the Board of County Commissioners has received and carefully reviewed the input, documents, and testimony from the public regarding the proposed Utah County Land Use Ordinance amendment; and

WHEREAS, the Board of County Commissioners finds the amendment to the Utah County Land Use Ordinance is consistent with the Utah County General Plan and the other provisions of the Utah County Land Use Ordinance; and

WHEREAS, the Board of County Commissioners finds the proposed Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the citizens of Utah County, considering all factors;

NOW, THEREFORE, THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

Part I:

Chapters 8 and 16 of the Utah County Land Use Ordinance are hereby amended, including any appropriate re-numbering and re-formatting of applicable subsections, to read as depicted for the applicable subsections in the attached exhibit:

See Exhibit "A"

Part II:

A copy of the Utah County Land Use Ordinance, as amended herein, is hereby ordered to be filed in the office of the Utah County Clerk.

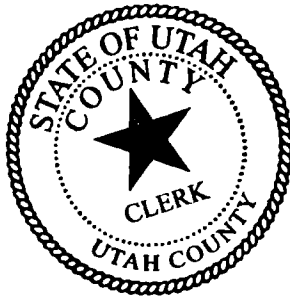
Part III:

If any of the sections, sentences, clauses, or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

Part IV:

This ordinance shall become effective fifteen (15) days after it is passed and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

APPROVED and ADOPTED this 14th day of May 2025.



BOARD OF COUNTY COMMISSIONERS,
UTAH COUNTY, UTAH

Brandon B. Gordon

BRANDON B. GORDON, Chair

ATTEST:
AARON R. DAVIDSON
Utah County Clerk

APPROVED AS TO FORM AND LEGALITY:
JEFFREY S. GRAY
Utah County Attorney

By: *Aaron R. Davidson*

Deputy Clerk

By: *Jeffrey S. Gray*

Deputy County Attorney

BOARD OF COUNTY COMMISSIONERS,
UTAH COUNTY, UTAH

BRANDON B. GORDON, CHAIR

SKYLER BELTRAN, VICE CHAIR

AMELIA POWERS GARDNER, COMMISSIONER

VOTE	
YEA	NAY
<u> X </u>	<u> </u>
<u> X </u>	<u> </u>
<u> X </u>	<u> </u>

“Exhibit A”

8.04 Notification Requirements

Notification shall be provided as required by Utah Code Title 17, Chapter 27a, Part 2, as amended, and as follows:

- A. Notice for Conditional Use applications. Notice of the date, time, and place of a public meeting for a proposed Conditional Use shall be provided by actual notice, or by notice as follows:
 - 1. Mailed not less than ten calendar days before the public meeting and addressed to the owner (as found on the most recent county assessment roll) of each Adjacent Lot or Parcel; or
 - 2. Posted not less than ten calendar days before the public meeting on or near the property proposed for a Conditional Use in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to those who pass by.

16.40 Board Of Adjustment

- A. The County Commission may establish a Board of Adjustment to act as the Appeal Authority as required by Utah Code section 17-27a-701, as amended. The Board of Adjustment shall consist of five members (termed "regular members") appointed by the County Commission plus whatever number of alternate members the County Commission may appoint. The term of a regular member shall be for a period of three years and until their successors are appointed, and the term of an alternate member shall be for the time period specified at the time of appointment. The terms of the regular members shall be staggered so that the term of at least one member shall expire each year on December 31. Appointments to fill vacancies shall be for the unexpired term of the vacant office.
- B. Both regular members and alternate members shall be administered the oath of office after being appointed but before taking part in any deliberations of the Board. An alternate member shall have full power to act in any capacity of a regular member when there are fewer than five regular members present. When there is a vacancy and more than one alternate member is available at the hearing, the Chairperson of the Board of Adjustment shall select which alternate shall sit with the Board. If, while deliberations are in progress, a regular member arrives, the regular member shall not take the seat of an alternate member.

- C. Members of the Board of Adjustment shall be residents of Utah County.
- D. Any member of the Board of Adjustment may be removed for cause by the County Commission if written charges are filed against the member with the County Commission. The County Commission shall provide the member with a public hearing, if requested, before taking action on the charges.
- E. The Board of Adjustment shall elect a Chairperson and other officers necessary to fulfill its duties and shall adopt rules consistent with this land use ordinance.
- F. Quorum and decisions: To take any action, the Board of Adjustment must have at least three (3) members participating in the deliberations. For the Board of Adjustment to render a decision, it shall require the concurring vote of three (3) members of the Board of Adjustment.

16.41 Land Use Administrative Law Judge, Position Created, Powers and Duties

- A. The County Commission may appoint one or more administrative law judges to act as the Appeal Authority as required by Utah Code section 17-27a-701, as amended. Only one administrative law judge shall consider and decide any matter properly presented for review.
- B. An administrative law judge shall serve for an indefinite time at the pleasure of the County Commission and may be released with or without cause.
- C. An administrative law judge shall not be a member of the County Commission, planning commission, county staff, or any other elected or appointed official of the County.
- D. Each administrative law judge shall be a lawyer in good standing with the Utah State Bar with land use experience. Each administrative law judge shall be selected based on objective qualifications to hear and render an efficient and legally supported decision. Administrative law judges shall be selected because they have analytical abilities and the ability to make decisions based on the law as it relates to the facts. Each administrative law judge shall have the expertise to read briefs, conduct research, make evidentiary rulings, and write decisions. Each administrative law judge shall have the expertise to conduct administrative hearings with due process protections, create a record of the hearing, and render a written decision in a timely fashion.
- E. The administrative law judge shall not participate in any appeal where there is a conflict of interest.

16.44 Appeal Authority, Rules and Procedures

- A. The Appeal Authority shall:
1. Hold hearings as specified in this land use ordinance and in keeping with the procedures set forth for informal adjudicative proceedings under Utah Code § 64G-4-202 and -203, as amended.
 2. Use parliamentary rules, the Utah Rules of Civil Procedure, and the Utah Rules of Evidence as guidelines, but not binding rules, for the conduct of hearings. The Appeal Authority may consider any relevant, nonprivileged, oral or documentary evidence presented.
 3. Convene hearings on a case-by-case basis when a person or entity commences an action.
 4. Set a documentation schedule and hearing date once an action commences.
 5. Make written findings of fact, conclusions of law, and a final decision. The decision may affirm or reverse, in whole or in part, the decision being appealed.
- B. The Appeal Authority may administer oaths and compel the attendance of witnesses.
- C. The Appeal Authority shall keep a record of the proceedings. This record, along with the appeal application, written statements, and other facts bearing on the appeal and decision of the Appeal Authority, shall be filed in the office of the Community Development Department.
- D. Each hearing shall be heard by the Appeal Authority constituted at the time the matter is scheduled to be heard.
- E. If the appellant fails to appear at the hearing, without good cause, the failure shall be deemed a withdrawal of the appeal and a waiver of any appeal rights.
- F. The Appeal Authority is not a public body.

16.48 Powers And Duties Of The Appeal Authority

The powers and duties of the Appeal Authority shall include and be limited to hearing and deciding issues in accordance with Utah Code § 17-27a-701(1), as amended.

16.52 Power Of Appeal Authority, Limited

The powers and duties of the Appeal Authority are limited to the those set forth in this land use ordinance. The Appeal Authority shall not have the authority to amend this land use ordinance nor to act outside of the authorized rules set forth in UCLUO 16 nor the Utah Code, as amended. Moreover, no decision shall be made in such a way so as to destroy the intent and purpose of the land use ordinance. Furthermore, the Appeal Authority does not have the power to sue and be sued; its decisions are subject to review only according to the provisions of UCLUO 16 and the Utah Code, as amended.

16.56 Requests To Appear Before The Appeal Authority

- A. Any person or entity seeking review by the Appeal Authority may commence such action by completing the standard forms adopted by the Appeal Authority and filing the forms in the office of the Community Development Department.
- B. The Appeal Authority shall designate someone from the Community Development Department to receive and process appeal forms. The designated person shall accept and process such forms only if they are properly completed and accompanied by the filing fee in the current amount set by the County Commission.
- C. Any appeal of a decision made in applying this land use ordinance must present every theory of relief that the appellant can raise in district court. Any theory of relief not raised by the appellant in the written appeal form shall be barred.
- D. Any appeal of a decision made in applying this land use ordinance must be properly filed within forty-five (45) days of the date of the contested decision or it shall be time-barred and not heard.

16.60 Land Use Authority Response Procedures

Upon receipt of the forms, the person designated to receive appeal forms shall forthwith notify the Zoning Administrator of the matter and invite his/her response.

16.64 Hearing Procedures

- A. An Appeal Authority shall fix a reasonable time for hearing the appeal, give notice as required by law, and decide the same. The Appeal Authority shall set a standard procedure for conducting hearings before it is consistent with UCLUO 16.44. Such

procedures, prior to adoption, shall be reviewed and approved by the Utah County Attorney.

- B. Any party may appear at the meeting in person or by agent or by attorney.

16.68 Decisions of the Appeal Authority

- A. An appeal shall prevail only when the Appeal Authority finds that all of the forms, procedures, and rules have been completed and fully complied with.
- B. The Appeal Authority shall record the specific reasons for its decision.

16.72 Rules For Hearing And Deciding Appeals On Alleged Errors

- A. **Jurisdictional Requirements:** Prior to filing the appeal with the Appeal Authority, the Appeal Authority shall lack jurisdiction and shall not hear the appeal unless all the following requirements have been met:
1. Within twenty (20) days of the date of the decision being appealed, the appellant must present the Zoning Administrator, or other person or entity which made the decision in question, with a written claim of error which fully sets forth:
 - a. a brief statement of the facts; and
 - b. the nature of the claim of error.
 2. Within thirty-five (35) days of the date of the decision being appealed, the Zoning Administrator, or other person or entity which made the decision in question, may, but is not required to, respond in writing to the claim of error. The claim of error shall be deemed denied if the Zoning Administrator, or other person or entity which made the decision in question, fails to approve or deny the claim of error or otherwise respond.
- B. **Required Standards:** The Appeal Authority shall not grant the reversal or relief appealed for unless it finds that all of the following standards have been met:
1. The appellant has filed a properly completed application for appeal, which states with specificity the nature of the alleged error and how the appellant has been adversely affected by said alleged error.
 2. The application for appeal was properly filed with the Appeal Authority forty-five (45) days or less after the date of the decision being appealed.

3. The appellant must be a party which was adversely affected by the subject decision applying this land use ordinance.
4. The decision in question must be one made in applying this land use ordinance, not some other state or county law, office policy, personnel matter, or other decision beyond the purview of this land use ordinance.
5. Legislative zoning decisions (e.g. decisions made by the County Commission enacting or amending this land use ordinance) shall not be within the purview of the Appeal Authority.
6. If the Appeal Authority grants the appellant's request, the result must be consistent with the provisions of this land use ordinance and not waive or modify any of the terms or requirements thereof.
7. The applicant has the burden of proving that an error was made. Expressions of support or protest alone shall not constitute the basis of approval or denial.
8. The Appeal Authority shall presume that the order, requirement, decision, or determination made in the administration of this land use ordinance is valid and shall determine only whether or not the order, requirement, decision, or determination is arbitrary, capricious, or illegal.
 - a. An order, requirement, decision, or determination is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.
 - b. A determination of illegality requires a determination that the order, requirement, decision, or determination violates a law, statute, or ordinance in effect at the time the order, requirement, decision, or determination was made.
 - c. For legal issues, the Appeal Authority shall apply a correctness standard to its review and determine if the land use authority correctly applied the plain meaning of the land use regulation.
 - d. For factual issues, the Appeal Authority shall examine the facts on the record and determine if the record on appeal includes substantial evidence for each essential finding of fact.
9. If there is a record, the Appeal Authority's review is limited to the record provided, and the Appeal Authority may not accept or consider any evidence

outside the record, unless that evidence was previously offered, and it was improperly excluded. If there is no record, the Appeal Authority may call witnesses and take evidence.

16.76 Rules For Hearing And Deciding Appeals For Variances

- A. Required Standards: Any person or entity desiring a waiver or modification of the requirements of this land use ordinance as applied to a parcel of property that he/she owns, leases, or in which he/she holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of this land use ordinance. The Appeal Authority shall not grant approval unless it finds that all of the following standards have been met:
1. The substance of the variance must be a request to vary the requirements for height, bulk, width, setback, or other numerical or quantitative requirement, as distinguished from approval to have a land use that is not listed as permitted in a zone (e.g. no “use variance” shall be granted).
 2. The appellant has filed a properly completed application which states the normal or standard amount of area, distance, size or volume required by this land use ordinance, the specific amount of variance being requested, and all other information required by the application form.
 3. The Appeal Authority may grant a variance only if the request complies with the requirements found in Utah Code § 17-27a-702, as amended.

16.84 Notification And Duration Of Approval

- A. Within thirty (30) days after a decision has been made, the Appeal Authority shall file a written notice of its decision with the Community Development Department and email or mail a copy of the notice to the applicant at the address supplied in the application form. The decision of the Appeal Authority shall be deemed final at the time it is filed with the Community Development Department.
- B. The Appeal Authority shall record all final decisions with the Utah County Recorder.
- C. If a request for a variance is approved, the notice shall also contain the date such approval terminates if a Building permit (or other permit or license, if applicable) is not obtained pursuant thereto. Such termination shall automatically be one year from the date of the decision of the Appeal Authority. The Appeal Authority may, as a

condition of approval, set a different termination date for a variance on a finding that a different date is necessary for substantial justice to be done.

- D. After the hearing, the Appeal Authority may order the termination date for a variance enlarged if a request is made in writing, the request is made before the expiration of the period originally prescribed, and a different date is necessary for substantial justice to be done. A variance may be enlarged only one (1) time for a maximum of one (1) year. A request for an enlargement of time shall not be considered a rehearing under UCLUO 16.
- E. Variances are subject to abandonment as follows:
1. Variances which are rendered unoccupiable or otherwise unusable by the destruction of a fire, flood, or other calamity or act of nature may be restored and the preexisting use resumed provided that a Building permit for reconstruction is obtained within one year from the date of destruction and construction is diligently prosecuted to completion and re-occupancy. Such restoration shall not increase the variance previously approved by the Appeal Authority. If a Building permit is not issued within one year from the date of destruction or if the Building permit is so issued but construction is not diligently prosecuted to completion and re-occupancy, then the variance shall be conclusively deemed abandoned, and the variance shall terminate.
 2. Variances which are not occupied or not used for a continuous period of one year or longer shall not thereafter be relicensed, reoccupied, or used anew. The variance shall be conclusively deemed abandoned, and the variance shall terminate.

16.88 Recourse From Actions Taken By The Appeal Authority

- A. Any person adversely affected by any decision of an Appeal Authority may file a petition with the Fourth District Court for Utah County for a review of that decision. Any such appeal must comply with Utah Code § 17-27a-801, as amended.
- B. No decision of an Appeal Authority shall be subject to rehearing by the same authority, except when remanded from a court of competent jurisdiction.

16.94 Rules For Hearing And Deciding Conditional Use Applications

- A. When the Planning Commission acts under its power to hear and decide applications for Conditional Uses, the Conditional Use shall be approved if reasonable conditions are proposed, or can be imposed, to substantially mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the standards in this section and other relevant sections of this land use ordinance. If the reasonably anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated, the Conditional Use may be denied.
- B. The Planning Commission shall ensure compliance with the following procedures:
1. The applicant shall have submitted a properly completed application form signed by the property owner.
 2. The land use ordinance specifically identifies the Conditional Use in question as one which the Planning Commission is empowered to approve.
 3. The use shall comply with all of the terms and requirements of the land use ordinance, including but not limited to UCLUO 4, UCLUO 6, UCLUO 8, and UCLUO 12.
 4. The applicant has the burden of proving by a preponderance of the evidence that all conditions for granting a Conditional Use have been met and must meet that burden based on the facts presented for the record; expressions of support or protest alone shall not constitute the basis of approval or denial.
 5. A grant of a Conditional Use permit requires the concurring vote of a majority of Planning Commission Members participating in the deliberations.
 6. Conditional Uses run with the land, subject to UCLUO 16.84(E).
- C. The Planning Commission may attach conditions to mitigate any anticipated detrimental effects of the proposed use and may consider the following standards in doing so. When considering the effects, the Planning Commission may consider the reasonably anticipated detrimental effects in the context of current conditions and, to the extent supported by law, the policy recommendations of the applicable general plan.
1. Mitigate injury, loss of life, and property damage to firefighting and emergency medical service agencies.
 2. Mitigate injury, loss of life, and property damage for the county sheriff's office or the need for added peace keeping activities.

3. Mitigate any disproportionate demand for government services generally, including, but not limited to, firefighting; emergency medical services; policing; schools and school busing; water, sewer and stormwater facilities; and garbage removal.
4. Mitigate injury, loss of life, or property damage from any known geologic or flood hazard if credible evidence of such a detrimental effect is present.
5. Substantially mitigate the likelihood that the proposed use or facility may cause bodily injury or property damage to potential persons or property in the area.
6. Mitigate the creation of traffic hazards, right-of-way conflicts, or undesirable vehicle or pedestrian traffic patterns or volumes.
7. Mitigate onsite vehicle or pedestrian circulation inefficiencies and provide for adequate onsite parking given the unique specificities of the proposed use or the proposed site plan.
8. Mitigate material degradation of the level of service of any storm water drainage facility or infrastructure, and adequately provide for storm water drainage from the site.
9. Mitigate material degradation of the level of service of any culinary, secondary, or irrigation water facility or infrastructure, and, if applicable, provide adequate culinary, secondary, or irrigation water service to the site.
10. Mitigate material degradation of the level of service of any sanitary sewer service, and, if applicable, provide adequate sanitary sewer service to or septic system on the site.
11. Mitigate material degradation of the level of service of any other utility, and, if applicable, adequately provide such utility services to the site.
12. Mitigate material degradation of the level of service, functionality, capacity, or usability of the existing open spaces, public features, or recreational amenities in the area, and, if applicable, adequately provide additional open spaces, public features, or recreational amenities.
13. Mitigate detrimental effects on the natural features of the site and the surrounding affected areas if credible evidence of such a detrimental effect is present; including, but not limited to, rivers and creeks, lakes, ponds, reservoirs, wetlands, drainage ways, groundwater protection, and slopes.

14. Mitigate detrimental effects on the natural environment of the site and the surrounding affected areas if credible evidence of such a detrimental effect is present; including, but not limited to, wildlife, air quality, water quality (including erosion control), local natural resources, natural vegetation (including protection against noxious or invasive species), and wildland areas.
 15. Provide buffering, screening, or fencing of the use or site, or provide other landscape features sufficient to mitigate the proximity of incompatible uses, objectionable site features, and disharmony with existing and future land uses in the area.
 16. Provide hours of operation appropriate for the general nature and character of existing land uses in the area to mitigate conflict or incompatibility with surrounding uses.
 17. Provide reclamation, restoration, cleanup, or beautification of the site as the use evolves or as the use is terminated in order to mitigate aesthetic and nuisance effects.
 18. Mitigate nuisance factors, including, but not limited to, light and glare, noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, electromagnetic disturbances, and radiation, if credible evidence of such a nuisance is present.
 19. Mitigate potential noncompliance or poor performance by requiring regular review or monitoring of certain specified detrimental effects by an appropriately qualified professional.
 20. Provide appropriate mitigation of detrimental effects as required in standards found elsewhere in this land use ordinance and any other federal, state, or local regulation, as may be applicable.
- D. Voluntary contributions providing satisfactory compliance with applicable standards. When considering a Conditional Use, the land use authority has discretion to determine satisfactory compliance with any applicable standard, requirement, provision, or restriction of this chapter if the applicant has voluntarily offered a more desirable alternative to mitigate the reasonably anticipated detrimental effects of the use than those otherwise specified here. The land use authority may require a development agreement to execute the voluntary alternative.

- E. Within fifteen (15) days after a decision has been made, the Planning Commission shall file a written notice of its decision in its offices and mail a copy of the notice to the applicant at the address supplied in the application form. The decision of the Planning Commission shall be deemed final at the time it is filed in its offices.
- F. The Planning Commission shall record all final decisions with the Utah County Recorder.
- G. If a request for a Conditional Use is approved, the notice shall also contain the date such approval terminates if a Building permit (or other permit or license, if applicable) is not obtained pursuant thereto. Such termination shall automatically be three (3) years from the date of the decision of the Planning Commission. The Planning Commission may, as a condition of approval, set a different termination date for a Conditional Use on a finding that a different date is necessary for substantial justice to be done.
- H. After the hearing, the Planning Commission may order the termination date for a Conditional Use enlarged if a request is made in writing, the request is made before the expiration of the period originally prescribed, and a different date is necessary for substantial justice to be done. A Conditional Use may be enlarged only one (1) time for a maximum of five (5) years. Any request for an enlargement of time shall comply with the applicable notice requirements for a Conditional Use. This request for an enlargement of time shall not be considered a rehearing under UCLUO 16.
- I. Conditional Uses are subject to abandonment as follows:
 - 1. Conditional Uses which are rendered unoccupiable or otherwise unusable by the destruction of a fire, flood, or other calamity or act of nature may be restored and the preexisting use resumed provided that a Building permit for reconstruction is obtained within one year from the date of destruction and construction is diligently prosecuted to completion and re-occupancy. Such restoration shall not increase the Conditional Use previously approved by the land use authority. If a Building permit is not issued within one year from the date of destruction or if the Building permit is so issued but construction is not diligently prosecuted to completion and re-occupancy, then the Conditional Use shall be conclusively deemed abandoned, and the Conditional Use shall terminate.
 - 2. Conditional Uses which are not occupied or not used for a continuous period of one year or longer, shall not thereafter be relicensed, reoccupied or used

anew. The Conditional Use shall be conclusively deemed abandoned, and the Conditional Use shall terminate.