

ORDINANCE # 25-17

AN ORDINANCE AMENDING THE SANDY CITY MUNICIPAL CODE TITLE 21, “LAND DEVELOPMENT CODE”, CHAPTER 35, “APPEALS AND VARIANCES”.

WHEREAS, it is necessary to amend the Sandy City Municipal Code Title 21, “Land Development Code”, Chapter 35, “Appeals and Variances”;

WHEREAS, the proposed amendments will bring the code up to date with the Utah Code by revising any requirement for a public hearing related to appeals and variances;

WHEREAS, the Planning Commission held a public hearing on June 19, 2025, which meeting was preceded by posting in Sandy City Hall, Sandy Parks & Recreation, the Salt Lake County Library-Sandy, the Sandy City Website - <http://www.sandy.utah.gov>, and the Utah Public Notice Website - <http://pmn.utah.gov> on June 9, 2025;

WHEREAS, the City Council of Sandy City, Utah met on July 1, 2025 and July 15, 2025, and has taken into consideration citizen testimony, planning and demographic data, the desires of the owners of the property and the Planning Commission recommendation as part of the Council's deliberations.

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

Section 1. Amendment. Title 21 is hereby amended as set forth in **Exhibit “A”** which is attached hereto and by this reference made a part hereof. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the Code hereby adopted are hereby repealed.

Section 2. Severable. If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgement shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined in its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted of such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. Effective. This ordinance shall become effective upon publication of a summary thereof.

PASSED AND APPROVED this _____ day of _____, 2025.

Aaron Dekeyser, Sandy City Council Chair

ATTEST:

City Recorder

PRESENTED to the Mayor of Sandy City for her approval this _____ day of _____, 2025.

APPROVED this _____ day of _____, 2025.

Monica Zoltanski, Mayor

ATTEST:

City Recorder

PUBLISHED this _____ day of _____, 2025.

EXHIBIT "A"

CHAPTER 21-35. APPEALS AND VARIANCES¹

Sec. 21-35-1. Appeals.

- (a) *Administrative Appeal Required.* As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge the land use authority's decision, in accordance with these ordinances.
- (b) *Authority.* The appeal authorities set forth in this title act in a quasi-judicial manner and as the final arbiter of issues involving the interpretation or application of land use ordinances.
- (c) *Who May Appeal.* The applicant, the City, a board or officer of the City, or any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance may, within the time period provided in this title, appeal that decision to the designated appeal authority by alleging that there is an error in any order, requirements, decision, or determination made by the land use authority in the administration or interpretation of this title. In the event that the land use authority requires that a matter return to it for further review, an appeal can only be made on a decision made after that further review.
- (d) *Time for Appeal.* Except as provided in U.C.A. 1953, § 10-9a-704, an appeal of a decision of a land use authority to an appeal authority must be filed in writing with the Community Development Department within ten calendar days of the date the land use authority issues a written decision or approval of the minutes of a meeting at which the decision was made, if applicable, whichever occurs first.
- (e) *Information to be Presented.*
 - (1) An appellant must first present any and all information to the land use authority which it intends to raise before the appeal authority. The appellant may not bring new information for consideration before the appeal authority that had not been previously presented to the land use authority during its consideration of the matter.
 - (2) An appellant must present to the designated appeal authority every theory of relief that it can raise in District Court.
 - (3) No new information that was not previously presented to the land use authority may be presented on appeal.
- (f) *Review of the Record of the Land Use Authority.*
 - (1) The appeal authority's review of decisions of a land use authority shall be confined to the administrative record developed by the land use authority unless the appeal authority determines that the record is incomplete or deficient.
 - (2) If the appeal authority determines that the record is incomplete or deficient, it may ~~review the matter de novo.~~ remand the case to develop the record or continue the meeting to complete the record with the information previously presented to the land use authority.
- (g) *Burden of Proof.* The appellant has the burden of proving that the land use authority erred.
- (h) *Standard of Review.*
 - (1) *Legal Issues; Correctness Standard.* The appeal authority shall determine the correctness of a decision of the land use authority or administrative official in its interpretation and application of a land use ordinance. Because no specialized knowledge is necessary to make such a determination, no deference is given to the land use authority or administrative official; provided, however, the appeal authority shall not overrule that decision as a matter of law without the advice of its legal counsel.

¹State law reference(s)—Appeals and variances, U.C.A. 1953, § 19-9a-701 et seq.

EXHIBIT "A"

(2) *Factual Issues and Other Issues; Arbitrary and Capricious Standard.* Land use authorities and administrative officials have specialized knowledge in the field of planning and land use and are charged with and are experienced in implementing the goals and policies of the community as adopted by and under the supervision of elected representatives of the public. Accordingly, they should be allowed a comparatively wide latitude of discretion; and their actions endowed with a presumption of correctness and validity which an appeal authority should not interfere with unless it is shown that there is no reasonable basis to justify the action taken, and that, therefore, the determinations made were so unreasonable as to be arbitrary and capricious. It is not the appeal authority's prerogative to substitute its judgment for that of the land use authority where the record discloses a reasonable basis for the land use authority's determination.

- (i) *Scope of Authority.* Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority.
- (j) *Effective Date of Appeal Authority Decision.* A decision of an appeal authority ~~takes effect~~ is final on the date when the appeal authority issues a written decision or approval of the minutes of the meeting at which the decision was made, whichever comes first.

~~(1) Board of Adjustment. At the meeting in which the decision is made.~~

~~(2) Other Appeal Authorities. On the date when the appeal authority issues a written decision or approval of the minutes of the meeting at which the decision was made, if applicable, whichever comes first.~~

(LDC 2008, § 15A-35-01; Ord. No. 16-05, 2-5-2016)

Sec. 21-35-2. Variances.

Variances shall be governed by U.C.A. 1953, § 10-9a-702.

(LDC 2008, § 15A-35-02)

Sec. 21-35-3. District Court of Review of Decision.

- (a) Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the District Court within 30 days after the land use decision is final.
- (b) No person may challenge in District Court the City's land use decision made under this chapter or under a regulation made under authority of this title, until that person has exhausted their administrative remedies as provided herein and in the Municipal Land Use, Development, and Management Act (U.C.A. 1953, § 10-9a-101 et seq.), if applicable.
- (c) The filing of a petition in the District Court and its review shall be governed by the provisions of the Municipal Land Use, Development, and Management Act (U.C.A. 1953, § 10-9a-101 et seq.).

(LDC 2008, § 15A-35-03)

State law reference(s)—District court review, U.C.A. 1953, § 10-9a-801 et seq.