

**HARRISVILLE CITY
ORDINANCE 531**

LAND USE ADMINISTRATIVE AMENDMENTS

AN ORDINANCE OF HARRISVILLE CITY, REPEALING, RE-ENACTING AND AMENDING THE LAND USE AUTHORITY AND PLANNING COMMISSION ADMINISTRATIVE STRUCTURE; LAND USE DUTIES AND POWERS; LAND USE APPEALS; SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, Harrisville City (hereafter “City”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §§ 10-8-84 and 10-8-60 allow municipalities in the State of Utah to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, Title 10, Chapter 9a, of the *Utah Code Annotated*, 1953, as amended, enables municipalities to regulate land use and development;

WHEREAS, the City finds it necessary to update its land use ordinances in order to meet the challenges presented by development and to protect public health, safety, and welfare;

WHEREAS, after publication of the required notice the Planning Commission held its public hearing on February 9, 2022, to take public comment on the proposed Ordinance, after which the Planning Commission gave its recommendation to adopt this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission and held its public meeting on March 8, 2022;

NOW, THEREFORE, be it ordained by the City Council of Harrisville City as follows:

Section 1: Repealer. Sections 11.02.030, 11.02.040 and 11.02.050 of the *Harrisville Municipal Code* are both hereby repealed in their entirety. The remaining Sections of Chapter 11.02 of the *Harrisville Municipal Code* shall be renumbered appropriately. Section 2.01 of the *Harrisville Municipal Code* entitled “Land Use Authorities and Appeals” is repealed and re-enacted. Any other ordinance or portion of the *Harrisville Municipal Code* inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2: Administrative Actions. The *Harrisville Municipal Code* is amended to repeal all instances requiring administrative action, or non-legislative action, on a land use application by the City Council, excepting subdivisions over ten (10) lots.

Section 3: Adoption. The following portions of the *Harrisville Municipal Code* are hereby adopted to read as follows:

2.01.010 Planning Commission.

1. Establishment. In accordance with Utah Code Annotated §10-9a-301, City hereby establishes the Planning Commission subject to this Section.
2. Membership. The Planning Commission is composed of three (3) to five (5) members, and alternates as needed. Any alternate shall vote and is considered in all respects to exercise the same powers and duties as a member. All members shall be residents, and registered voters of the City, duly appointed by the Mayor, subject to the advice and consent of the City Council.
3. Term. Each member of the Planning Commission shall serve a term of four (4) years which may be staggered from other members.
4. Vacancy. Any vacancy in the Planning Commission is filled for the remainder of the unexpired term by appointment of the Mayor, subject to the advice and consent of the City Council.
5. Removal. A member may be removed by the Mayor at any time, subject to the advice and consent of the City Council.
6. Powers and Duties. The Planning Commission is a recommending body and shall only exercise the powers and duties set forth in Utah Code §10-9a-302, and as may be provided by code.
7. Presiding Officer. The Planning Commission shall, at its first meeting each year, elect a Chair and Vice-chair from its membership. The Chair shall serve as the presiding officer, and the Vice-chair shall serve as such in the absence of the Chair.
8. Quorum. A quorum of the Planning Commission consists of the majority of the members present at a public meeting. A decision of the Planning Commission is based upon the majority vote of the quorum present and voting at a public meeting. Each member present at a meeting shall vote on an issue, yea or nay, except when a member declares a conflict of interest. A tie vote fails, or is deemed to be a negative recommendation, as the case may be.
9. Rules. The Planning Commission shall follow the Rules of Procedure and Order adopted by the City Council.
10. Compensation. The Mayor may fix per diem and compensation as established by the City Council.

2.01.020 Appeal Authority.

1. Establishment. In accordance with Utah Code §10-9a-701, the City hereby establishes an Appeal Authority to hear and decide land use appeals, and other appeals as provided by the municipal code.

2. Appointment. The Mayor shall appoint an individual, including alternates, as the Appeal Authority subject to the advice and consent of the City Council.
3. Qualification. The individual appointed should have qualified experience in land use as a professional surveyor, attorney, civil engineer, educator, or other land use related field.
4. Compensation. The Mayor may fix per diem and compensation as established by the City Council.
5. Authority. The Appeal Authority is quasi-judicial and serves as the final arbiter of issues involving the interpretation or application of the municipal code in the course of hearing and deciding all appeals, including:
 - a. Appeals set forth in Utah Code 10-9a-701(1)(b)
 - b. Variances in accordance with Utah Code §10-9a-702.
 - c. Appeals regarding geological hazards shall be administered in accordance with Utah Code §10-9a-703.
 - d. Any other appeal specified in the municipal code.
6. Time. In accordance with Utah Code Annotated §10-9a-704, a written appeal of any land use decision shall be filed with the City Recorder within ten (10) calendar days of the decision issued by the land use authority. An applicant, present at a meeting where a decision is made, is presumed to have actual notice of the decision which shall be deemed as the commencement of the ten (10) calendar day appeal period.
7. Burden. In accordance with Utah Code Annotated §10-9a-705, the appellant has the burden of proving error.
8. Due Process. Due process is afforded in accordance with Utah Code Annotated §10-9a-706.
9. Scope. Subject to the scope set forth in Utah Code Annotated §10-9a-707, the standard of review for the appeal authority is as follows:
 - a. For factual matters, the Appeal Authority may review the matter de novo.
 - b. The Appeal Authority shall determine the correctness of a decision of the Land Use Authority in its interpretation and application.
 - c. An appeal may be made where a Land Use Authority has applied a land use regulation to a particular application, person, or parcel.
 - d. All other standards for making an appeal shall be based upon the preponderance of the evidence.
10. Final Decision. The Appeal Authority shall issue a final decision in accordance with Utah Code §10-9a-708.
11. District Court. No person may challenge in district court any land use decision of the City until that person has complied with Utah Code Annotated §10-9a-801, and otherwise exhausted all administrative remedies and in accordance with Utah Code Annotated §10-9a-701(2). The following limitations apply:
 - a. No adversely affected parties shall present a theory of relief in district court that was not first presented to the appeal authority.
 - b. Adversely affected parties are precluded from pursuing duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies.

- c. The Appeal Authority may provide that a matter be appealed directly to the district court.

Section 4: Amendment. Section 11.18.100 of the *Harrisville Municipal Code* is hereby amended to read as follows:



11.18.100 Revocation.

~~In addition to other remedies and enforcement provided by law or code, A a conditional use permit may be revoked by the Planning Commission if any of the conditions or terms are violated; however, the person who has right to the conditional use permit shall first be given an opportunity to show cause before the planning commission why the permit should not be revoked. A violation of a condition or term of the conditional use permit shall constitute a violation of this code, and the revocation of a permit shall not prohibit prosecution or any other legal action taken on account of the violation. The decision of the planning commission to revoke a conditional use permit may be appealed to the city council, in writing, within fifteen (15) days of the planning commission's decision.~~

Section 5: Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which shall continue in full force and effect.

Section 6: Effective date. This Ordinance takes effect immediately upon adoption and posting.

PASSED AND ADOPTED by the City Council on this 8th day of March, 2022.


 MICHELLE TAIT
 Mayor
 ATTEST: 

 JENNIE KNIGHT
 City Recorder

Municipal Vote Tally:	Yes	No
Council Member Wilhelmsen	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Council Member Weiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Council Member Christensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Council Member Jackson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Council Member Loveland	<input checked="" type="checkbox"/>	<input type="checkbox"/>

RECORDED this 9th day of March, 2022.
 PUBLISHED OR POSTED this 9th day of March, 2022.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Harrisville City, hereby certify that foregoing ordinance was duly passed and published, or posted at 1) City Hall 2) 2150 North and 3) The Cabin on the above referenced dates.

Jinnie Knight DATE: 3/8/2022
City Recorder