

Ordinance No. 10-11

**AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE
OF PARK CITY, UTAH, REVISING SECTIONS 15-10, 15-11, and 15-12
STREAMLINING THE HISTORIC DESIGN REVIEW PROCESS FOR MINOR
PROJECTS AND REQUIRING A 45 DAY TIMEFRAME FOR APPEALS TO BE
HEARD BY THE BOARD OF ADJUSTMENT AND PLANNING COMMISSION**

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owner's of Park City;

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on an annual basis and identifies necessary amendments to address planning and zoning issues that have come up in the past year, and to address specific LMC issues raised by Staff and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals;

WHEREAS, the City's goals include preservation of Park City's character regarding Old Town improvements, historic preservation, sustainability, affordable housing, and protecting Park City's residential neighborhoods;

WHEREAS, Chapter 10 - Board of Adjustment, provides regulations and procedural requirements for the Board of Adjustment, and the City desires to clarify and revise these regulations regarding the timeframe by which an appeal shall be heard by the Board of Adjustment and clarify the scope of BOA review of City Council call-ups of Planning Commission action items, as outlined in the staff report; and

WHEREAS, Chapter 11 – Historic Preservation, provides regulations and procedural requirements for the Historic Preservation Board and for administrative actions regarding historic preservation in Park City and the City desires to clarify, revise and streamline the administrative process for historic design review, as outlined in the staff report; and

WHEREAS, Chapter 12 - Planning Commission, provides regulations and procedural requirements for the Planning Commission and the City desires to clarify and revise these regulations regarding the timeframe by which an appeal shall be heard by the Planning Commission, as outlined in the staff report; and

WHEREAS, these amendments are changes identified during the 2009 annual review of the Land Management Code that provide clarifications of processes

and procedures, and interpretations of the Code for streamlined review and consistency of application between Sections.

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meetings on November 11 and December 16, 2009 and January 20th, February 24th, and March 24th, 2010 and forwarded a recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on April 1, 2010; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the Upper Park Avenue residential neighborhood, preserve historic sites and structures, preserve the historic character of neighborhoods in the Historic District, promote economic development within the Park City Historic Main Street business area, and preserve the community's unique character.

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

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 10- Board of Adjustment. The recitals above are incorporated herein as findings of fact. Chapter 10 of the Land Management Code is hereby amended as redlined (see Exhibit A).

SECTION 2. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 11- Historic Preservation. The recitals above are incorporated herein as findings of fact. Chapter 11 of the Land Management Code is hereby amended as redlined (see Exhibit B).

SECTION 3. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 12- Planning Commission. The recitals above are incorporated herein as findings of fact. Chapter 12 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit C).

SECTION 4. SEVERABILITY OF ORDINANCE. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this 1st day of April 2010

PARK CITY MUNICIPAL CORPORATION

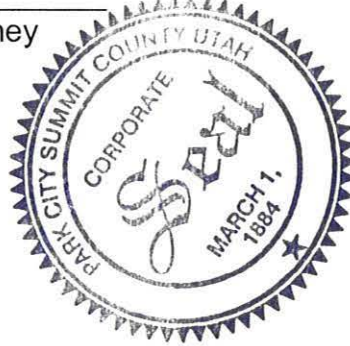

Dana Williams, Mayor

Attest:


Janet M. Scott, City Recorder

Approved as to form:


Mark Harrington, City Attorney



PARK CITY MUNICIPAL CODE - TITLE 15 LMC, Chapter 10 - Board of Adjustment
15-10-1



TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 10 - BOARD OF ADJUSTMENT

Chapter adopted by Ordinance No. 01-17

15-10-1. ESTABLISHMENT OF BOARD.

In order to avail the City of the powers provided in Chapter 9 of Title 10 of the Utah Code (1953, as amended), there is hereby created a Board of Adjustment, which shall consist of five (5) members. There shall also be one non-voting alternate to vote when a regular member is absent. Members shall be appointed by the Mayor with the advice and consent of the City Council. The Council may fix per diem compensation for the members of the Board of Adjustment by resolution, based on necessary and reasonable expenses for meetings actually attended. All members of the Board of Adjustment shall reside within the City limits, and are deemed to have resigned if they move their residence from the City limits.

15-10-2. TERM OF OFFICE.

Each member of the Board of Adjustment shall serve for a term of five (5) years or until his successor is appointed and qualified provided that the term of the members of the first Board so appointed shall be such that the term of one member shall expire each

year on June 1. Vacancies shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(Amended by Ord. No. 09-10)

15-10-3. POWERS AND DUTIES.

(A) The Board of Adjustment shall hear and decide:

- (1) Appeals from zoning decisions applying Title 15, Land Management Code;
- (2) Special exceptions to the terms of the Land Management Code; and
- (3) Variances from the terms of the Land Management Code.

(4) Appeals and Call-ups of Final Action by the Planning Commission at the request of the City Council for City Development.

(B) The Board of Adjustment shall make determinations regarding the modification of Non-Conforming uses and shall hear appeals on the determination of Non-Conforming or Non-Complying status by the Director of the

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(Amended by Ord. No. 09-10)

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(B) The Board of Adjustment shall make determinations regarding the modification of Non-Conforming uses and shall hear appeals on the determination of Non-Conforming or Non-Complying status by the Director of the

Planning Department, as provided in Title 15, Chapter 9.

(Amended by Ord. No. 06-35)

15-10-4. GROUNDS FOR REMOVAL.

Any Board member who is absent for two (2) consecutive regularly scheduled meetings, or a total of four (4) regularly scheduled meetings per year may be called before the City Council and asked to resign or be removed for cause by the Mayor, with the advice and consent of City Council. Additionally, the Mayor, with the advice and consent of City Council, may remove any member of the Board of Adjustment for cause if written charges are filed with the Mayor, against the member. The Mayor shall provide the member with a public hearing if the member requests one.

(Amended by Ord. No. 06-35)

15-10-5. ORGANIZATION.

(A) **CHAIR**. The Board of Adjustment shall elect one of its members to serve as Chair for a term of two (2) years at its first meeting following the date of expiration of terms in June. The Chair may be elected to serve for one (1) consecutive additional term, but not for more than two (2) successive terms. If the Chair is absent from any meeting where a quorum would otherwise exist, the members may appoint a Chair Pro Tem to act as Chair solely at that meeting.

(B) **QUORUM**. No business shall be conducted unless at least three (3) members

of the Board, not counting the alternate, are present.

(Amended by Ord. No. 09-10)

15-10-6. MEETINGS.

Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine.

(A) **WITNESSES**. The Chair of the Board of Adjustment or in his absence, the Chair Pro Tem, may administer oaths and compel the attendance of witnesses at such meetings, and all meetings shall comply with Title 52, Chapter 4, Open and Public Meetings, of the Utah Code, as amended.

(B) **MINUTES**. Written minutes shall be kept of all Board meetings. Such minutes shall include:

- (1) The date, time and place of the meeting.
- (2) The names of members present and absent.
- (3) The substance of all matters proposed, discussed, or decided, and a record, by individual member, of votes taken.
- (4) The names of all citizens who appeared and the substance in brief of their testimony.
- (5) Any other information that any member requests be entered in the minutes.

The minutes are public records and shall be available within a reasonable time after the meeting.

(Amended by Ord. No. 09-10)

15-10-7. APPEALS.

Also see Section 15-1-18. The Board shall hear and decide appeals from an Applicant or any other Person or entity, including any officer or board of the City, adversely affected by a final decision administering or interpreting the Land Management Code which alleges that there is an error in any order, requirement, decision or determination of the Land Management Code.

The appeal must be made in writing and submitted to the Planning Department within ten (10) days of the decision. The Board may, in conformity with the provisions of the Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the official from whom the appeal is taken. The Person or entity making the appeal has the burden of proving that an error has been made.

A Person may not appeal, and the Board of Adjustment may not consider, any amendments to the Land Management Code, or appeals of Conditional Use permits or Master Planned Developments, which shall be appealed to the City Council, unless specifically requested by the City Council for City Development.

Appeals may not be used to waive or modify the terms or requirements of the Land Management Code. Appeals shall be considered by the Board of Adjustment on the record made before the Historic Preservation Board or Planning Commission. Appeals to the Board of Adjustment will review factual matters for correctness and determine the correctness of the decision of the land Use authority in its interpretation and application of the land Use ordinance.

The scope of review of the Board of Adjustment is limited to issues brought to the land Use authority. Appeals shall be heard by the Board of Adjustment within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.

(Amended by Ord. Nos. 06-35; 09-10)

15-10-8. SPECIAL EXCEPTIONS.

The Board may hear Applications for special exceptions to the terms of the Land Management Code, which apply to variances, modifications of Non-Conforming Uses, appeals and other matters upon which the Board is required to pass judgment. Applications for special exceptions must be filed with the Planning Department, and the required fee paid in advance. No Application for a special exception shall be approved unless the Board of Adjustment shall determine that the proposed special exception is appropriate in the location proposed based upon its consideration of the general standards set forth below:

(A) The proposed Use and Development will be in harmony with the general and specific purposes for which the Land Management Code was enacted and for which the regulations of the district were established.

(B) The proposed Use and Development will not substantially diminish or impair the value of the Property within the neighborhood in which it is located.

(C) The proposed Use and Development will not have a material adverse effect upon the character of the Area or the public health, safety, and general welfare.

(D) The proposed special exception will be constructed, arranged and operated so as to be Compatible with the Use and Development of neighboring Property in accordance with the applicable district regulations.

(E) The proposed Use and Development will not result in the destruction, loss or damage to natural, scenic or historic features of significant importance.

(F) The proposed Use and Development will not cause material air, water, soil or noise pollution or other types of pollution.

The Board of Adjustment may impose conditions and limitations as may be necessary or appropriate to prevent or minimize adverse effects upon other Property and other improvements in the vicinity of the special exception or upon public facilities and services. These conditions may include but are not limited

to: conditions concerning Use, construction, operation, character, location, landscaping, Screening and other matters relating to the purposes and objectives of the Land Management Code. Such conditions shall be expressly set forth in the motion granting the special exception. Violation of any such condition or limitation shall be a violation of this section and shall constitute grounds for revocation of the special exception.

(Amended by Ord. Nos. 06-20; 06-20)

15-10-9. VARIANCE.

(A) Any Person or entity desiring a waiver or modification of the requirements of the Land Management Code as applied to a Parcel or Property that he/she owns, leases, or in which he/she holds some other beneficial interest may apply to the Board of Adjustment for a variance from the terms of the Land Management Code.

(B) An Application for variance review must be filed with the Planning Department, and the required fee paid in advance. The Application shall state the nature of the hardship and the nature of the variance requested. If the request for a variance is a result of a denial of any Building Permit or Conditional Use approval, the Application shall so state, and all documents on file concerning the matter shall be forwarded to the Board for review as a part of the request. The Applicant or the City may present any information as might be reasonably required by the Board in evaluating the request.

(C) Variances shall be granted only if all of the following conditions are found to exist:

- (1) Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code;
 - (2) There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone;
 - (3) Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone;
 - (4) The variance will not substantially affect the General Plan and will not be contrary to the public interest; and
 - (5) The spirit of the Land Management Code is observed and substantial justice done.
- (D) (1) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection 15-10-9(C)(1), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood.
- (2) In determining whether or not enforcement of the Land Management Code would cause unreasonable hardship under Subsection 15-10-9(C)(1), the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (E) In determining whether or not there are special circumstances attached to the Property under Subsection 15-10-9(C)(2), the Board of Adjustment may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.
- The Applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (F) Variances run with the land.
- (G) The Board of Adjustment may condition a variance by requiring the Owner to obtain a Building or other necessary permit within one (1) year of issuance of the variance, or the variance shall be null and void.
- (H) The Board of Adjustment and any other body may not grant a Use variance.
- (I) In granting a variance, the Board of Adjustment may impose additional requirements on the Applicant that will:
- (1) mitigate any harmful affects of the variance; or

(2) serve the purpose of the standard or requirement that is waived or modified.

(Amended by Ord. No. 06-35)

15-10-10. PERSONS ENTITLED TO APPEAR.

At the hearing on any matter before the Board of Adjustment, any Person aggrieved or interested in the matter may appear in person or through his attorney to testify on the matter. The Applicant shall have the right to respond to testimony offered in opposition to the Application.

15-10-11. DECISION.

Decisions of the Board of Adjustment become effective at the meeting in which the Board adopts written findings of fact, conclusions of law and conditions of approval, unless a different time is specifically designated by the Board.

15-10-12. VOTE NECESSARY.

The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, or determination of any such administrative official, board, or commission, or to decide in favor of the Applicant.

15-10-13. JUDICIAL REVIEW OF BOARD DECISION.

The City or any Person adversely affected by any decision of the Board of Adjustment

may petition the District Court in Summit County for a review of the decision. In the petition, the plaintiff may only allege that the Board of Adjustment decision was arbitrary, capricious, or illegal.

(Amended by Ord. No. 09-10)

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Section 15-11-10(A)(1) or Section 15-11-10(A)(2), the Building (main, attached, detached, or public) Accessory Building, and/or Structure will be removed from the Historic Sties Inventory. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

(d) **Appeal.** The Applicant or any party participating in the hearing may appeal the Historic Preservation Board decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Historic Preservation Board decision. Notice of pending appeals shall be made pursuant to Section 15-1-21 of this Code. Appeals shall be considered only on the record made before the Historic Preservation Board and will be reviewed for correctness.

(Amended by Ord. Nos. 09-05; 09-23)

15-11-11. DESIGN GUIDELINES FOR PARK CITY'S HISTORIC DISTRICTS AND HISTORIC SITES.

The HPB shall promulgate and update as necessary Design Guidelines for Use in the

Historic District zones and for Historic Sites. These guidelines shall, upon adoption by resolution of the City Council, be used by the Planning Department staff in reviewing Historic District/Site design review Applications. The Design Guidelines for Park City's Historic Districts and Historic Sites shall address rehabilitation of existing Structures, additions to existing Structures, and the construction of new Structures. The Design Guidelines are incorporated into this Code by reference. From time to time, the HPB may recommend changes in the Design Guidelines for Park City's Historic Districts and Historic Sites to Council, provided that no changes in the guidelines shall take effect until adopted by a resolution of the City Council.

(Amended by Ord. No. 09-23)

15-11-12. HISTORIC DISTRICT OR HISTORIC SITE DESIGN REVIEW.

The Planning Department shall review and approve, approve with conditions, or deny, all Historic District/Site design review Applications involving an Allowed or Conditional Use associated with a Building Permit to build, locate, construct, remodel, alter, or modify any Building, accessory Building ~~or Structure~~, located within the Park City Historic Districts or Historic Sites.

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the

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Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5. Whenever a conflict exists between the LMC and the Design Guidelines, the more restrictive provision shall apply to the extent allowed by law.

(A) PRE-APPLICATION CONFERENCE.

(1) The Owner and/or Owner's representative shall be required to attend a pre-Application conference with representatives of the Planning and Building Departments for the purpose of determining the general scope of the proposed Development, identifying potential impacts of the Development that may require mitigation, providing information on City-sponsored incentives that may be available to the Applicant, and outlining the Application requirements.

(2) Each Application shall comply with all of the Design Guidelines for Historic Districts and Historic Sites unless the Planning Department determines ~~that~~, because of the scope of the proposed Development, certain guidelines are not applicable.

If the Planning Department determines certain guidelines do not apply to an Application, the Planning Department staff shall communicate, via electronic or written means, the information to the Applicant. It is the responsibility of the Applicant to

understand the requirements of the Application.

(3) The Planning Director, or his designee, may, upon review of a Pre-Application submittal, determine that due to the limited scope of a project the Historic District or Historic Site Design Review process as outlined in LMC Sections 15-11-12 (B- E) is not required and is exempt.

If such a determination is made, the Planning Director, or his designee may, upon reviewing the Pre-Application for compliance with applicable Design Guidelines, approve, deny, or approve with conditions, the project and the Applicant may submit the project for a Building Permit.

Applications that may be exempt from the Historic Design Review process, include, but are not limited to the following:

(a) For Non-Historic Structures and Sites- minor routine maintenance, minor routine construction work and minor alterations having little or no negative impact on the historic character of the surrounding neighborhood or the Historic District, such as work on roofing, decks, railings, stairs, hot tubs and patios, foundations, windows, doors, trim, lighting, mechanical equipment, paths, driveways, retaining walls, landscaping, interior remodels, temporary improvements, and similar work.

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(b) For Significant Historic Structures and Sites- minor routine maintenance, minor routine construction work and minor alterations having little or no negative impact on the historic character of the surrounding neighborhood, the Historic Structure or the Historic District, such as work on roofing, decks, railings, stairs, hot tubs and patios, replacement of windows and doors in existing or to historic locations, trim, lighting, mechanical equipment located in a rear yard area or rear facade, paths, driveways, repair of existing retaining walls, landscaping, interior remodels, temporary improvements, and similar work.

(c) For Landmark Historic Structures and Sites- minor routine maintenance and minor routine construction having no negative impact on the historic character of the surrounding neighborhood, the Historic Structure, or the Historic District, such as re-roofing; repair of existing decks, railings, and stairs; hot tubs and patios located in a rear yard; replacement of existing windows and doors in existing or historic locations; repair of existing trim and other historic detailing; lighting, mechanical equipment located in a rear yard area or rear facade, repair of paths, driveways, and existing retaining walls; landscaping, interior remodels, temporary improvements, and similar work.

(B) COMPLETE APPLICATION.

The Owner and/or Applicant for any Property shall be required to submit a Historic District/Site design review Application for proposed work requiring a Building Permit in order to complete the work.

(C) NOTICE. Upon receipt of a Complete Application, but prior to taking action on any Historic District/Site design review Application, the Planning staff shall provide notice pursuant to Section 15-1-12 and 15-1-21 of this Code.

(D) DECISION. Following the fourteen (14) day public notice period noted in Section 15-1-21 of this Code. The Planning Department staff shall make, within forty-five (45) days, written findings, conclusions of law, and conditions of approval or reasons for denial, supporting the decision and shall provide the Owner and/or Applicant with a copy. Staff shall also provide notice pursuant to Section 15-1-21.

(1) Historic District/Site design review Applications shall be approved by the Planning Department staff upon determination of compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites. If the Planning Department staff determines an Application does not comply with the Design Guidelines, the Application shall be denied.

(2) With the exception of any Application involving the Reconstruction of a Building, Accessory Building, and/or Structure

on a Landmark Site, an Application associated with a Landmark Site shall be denied if the Planning Department finds that the proposed project will result in the Landmark Site no longer meeting the criteria set forth in 15-11-10(A)(1).

(3) An Application associated with a Significant Site shall be denied if the Planning Department finds that the proposed project will result in the Significant Site no longer meeting the criteria set forth in 15-11-10(A)(2).

(E) **APPEALS.** The Owner, Applicant, or any Person with standing as defined in Section 15-1-18(D) of this Code may appeal any Planning Department decision made on a Historic District/Site design review Application to the Historic Preservation Board.

All appeal requests shall be submitted to the Planning Department within ten (10) days of the decision. Appeals must be written and shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project, and a comprehensive statement of the reasons for the appeal, including specific provisions of the Code and Design Guidelines that are alleged to be violated by the action taken. All appeals shall be heard by the reviewing body within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.

Notice of all pending appeals shall be made by staff, pursuant to Section 15-1-21 of this

Code. The appellant shall provide required stamped and addressed notice envelopes within fourteen (14) days of the appeal. The notice and posting shall include the location and description of the proposed Development project. The scope of review by the Historic Preservation Board shall be the same as the scope of review at the Planning Department level.

(1) The Historic Preservation Board shall either approve, approve with conditions, or disapprove the proposal based on written findings, conclusions of law, and conditions of approval, if any, supporting the decision, and shall provide the Owner and/or Applicant with a copy.

(2) Any Historic Preservation Board decision may be appealed to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Historic Preservation Board decision. Notice of all pending appeals shall be made by staff, pursuant to Section 15-1-21 of this Code. Appeals shall be considered only on the record made before the Historic Preservation Board and will be reviewed for correctness.

(Amended by Ord. No. 09-23)

15-11-13. RELOCATION AND/OR REORIENTATION OF A HISTORIC BUILDING OR HISTORIC STRUCTURE.

- (5) failure to provide normal tenants improvements.

(C) DECISION. The CAD Hearing Board shall make written findings supporting the decision made. The CAD Hearing Board may determine that unreasonable economic hardship exists and approve the issuance of a CAD if one of the following conditions exists:

- (1) For income producing Properties, the Building, Structure or Site cannot be feasibly used or rented at a reasonable rate or return in its present condition or if rehabilitated and denial of the Application would deprive the Owner of all reasonable Use of the Property; or

- (2) For non-income producing Properties, the Building, Structure or Site has no beneficial Use as a residential dwelling or for an institutional Use in its present condition or if rehabilitated, and denial of the Application would deprive the Owner of all reasonable Use of the Property; and

- (3) The Building, Structure or Site cannot be feasibly Reconstructed or relocated.

(D) APPROVAL. If the CAD Hearing Board approves the Application, the Owner may apply for a Demolition permit with the Building Department and proceed to Demolish the Building, Structure or Site in compliance with other regulations as they may apply. The City may, as a condition of

approval, require the Owner to provide documentation of the Demolished Building, Structure or Site according to the standards of the Historic American Building Survey (HABS). Such documentation may include a complete history, photographs, floor plans, measured drawings, an archeological survey or other information as specified. The City may also require the Owner to incorporate an appropriate memorializing of the Building, Structure or Site, such as a photo display or plaque, into the proposed replacement project of the Property. Approval of a CAD shall be valid for one (1) year.

(E) DENIAL. If the CAD Hearing Board denies the Application, the Owner shall not Demolish the Building, Structure or Site, and may not re-apply for a CAD for a period of three (3) years from the date of the CAD Hearing Board's final decision, unless substantial changes in circumstances have occurred other than the re-sale of the Property or those caused by the negligence or intentional acts of the Owner. It shall be the responsibility of the Owner to stabilize and maintain the Property so as not to create a structurally unsound, hazardous, or dangerous Building, as identified in Section 115.1 of the International Building Code. The City may provide the owner with information regarding financial assistance for the necessary rehab or repair work, as it becomes available.

(F) APPEAL. The City or any Persons adversely affected by any decision of the CAD Hearing Board may petition the District Court in Summit County for a review of the decision. In the petition, the plaintiff may only allege that the Officer's

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decision was arbitrary, capricious, or illegal.
The petition is barred unless it is filed within
thirty (30) days after the date of the CAD
Hearing Board's decision.

(Amended by Ord. Nos. 09-10; 09-23)

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 12 - PLANNING COMMISSION

Chapter adopted by Ordinance No. 01-17

15-12-1. PLANNING COMMISSION CREATED.

There is hereby created a City Planning Commission to consist of seven (7) members. Members shall be appointed by the Mayor with advice and consent of the Council. Alternate members may also be appointed, which the Mayor may appoint with advice and consent of the Council.

(Amended by Ord. No. 06-35)

15-12-2. TERMS AND ELIGIBILITY OF MEMBERS.

Members of the Planning Commission shall serve terms of four (4) years. Terms shall be staggered and expire on the second Wednesday in July. Members shall continue to serve until their successors are appointed and qualified. The Mayor shall appoint a new Planning Commission member to fill vacancies that might arise and such appointments shall be to the end of the vacating member's term. Members of the Planning Commission shall be residents of Park City, and have resided within the City for at least ninety (90) days prior to being appointed. Members are deemed to have

resigned when they move their residences outside the City limits.

(Amended by Ord. No. 08-07)

15-12-3. GROUNDS FOR REMOVAL.

Any Planning Commission member who is absent from two (2) consecutive regularly scheduled meetings, or a total of four (4) regularly scheduled meetings per calendar year, or who violates Title 3, Ethics, may be called before the City Council and asked to resign or be removed for cause by the Council.

15-12-4. COMMUNITY REPRESENTATION.

Appointments to the Planning Commission shall be made on a basis which fairly represents the interests of all residents of the community.

15-12-5. AUTHORITY.

The Planning Commission shall have all necessary authority conferred on Planning Commissions pursuant to Chapter 9a of Title 10, Utah Code Annotated, 1953, as

amended, and such other powers as are conferred on it by the City Council.

15-12-6. CHAIR.

The Planning Commission shall on or after the second Wednesday in July each year, after appointment of new members, elect one of its members to serve as Chair for a term of one (1) year. The Chair may be elected to serve for one (1) consecutive additional term, but not for more than two (2) successive terms. The Chair may participate in discussions, but shall have no vote except in case of a tie vote by the members of the Commission.

(Amended by Ord. No. 09-10)

15-12-7. STAFF.

The Planning Department shall assist the Commission with technical matters. In order to assist the Planning Commission in carrying out its duties, the Planning Commission may request the assistance of other employees or agents of the City.

(Amended by Ord. No. 06-35)

15-12-8. ALLOWANCE.

The Planning Commission members shall receive an allowance for each meeting attended, as established by the City Council.

15-12-9. PURPOSE.

The Planning Commission shall act as a non-political, long range planning body for the City. Review of specific projects shall be limited to those matters specifically

requiring their consideration, and to the monitoring and reviewing of decisions of the Planning Department. The Planning Commission shall review those matters designated in Section 15-12-15 herein.

15-12-10. HEARINGS.

The Planning Commission shall establish procedures for its own hearings governing presentations of projects and public responses, and public impact or comment on specific projects or general issues. Notice for all agenda items pending action shall be according to the Notice Matrix as stated in Section 15-1-21.

15-12-11. MINUTES.

The Planning Commission shall keep official minutes of its meetings, which shall be permanently stored with the City Recorder. All meetings shall comply with Title 52, Chapter 4, Open and Public Meetings, of the Utah Code, as amended.

Written minutes shall be kept of all Commission meetings. Such minutes shall include:

- (A) The date, time and place of the meeting;
- (B) The names of members present and absent;
- (C) The substance of all matters proposed, discussed, or decided, and a record, by individual member, of votes taken;

(D) The names of all citizens who appeared and the substance in brief of their testimony; and

(E) Any other information that any member requests be entered in the minutes. The minutes are public record and shall be available within a reasonable time after the meeting.

15-12-12. DECISIONS.

All decisions of the Planning Commission shall be included in the minutes. Where written findings are required, the findings may be prepared separately, but shall be incorporated into the minutes.

15-12-13. QUORUM REQUIREMENT.

The Commission shall not conduct any business at a meeting unless a quorum is present. A quorum shall consist of a majority of the appointed members of the Commission, including the Chair for computation purposes.

(Amended by Ord. No. 09-10)

15-12-14. VOTING.

Actions of the Commission pass by majority vote. A majority is a simple majority of those members present at the meeting and entitled to vote on the matter under consideration. The vote of the Chair shall be counted only when he or she votes in order to break a tie vote of the other Commission members. The Commissioner elected Chair Pro Tem shall, at all times, be entitled to cast his or her vote as a member

of the Commission, including those occasions on which he or she is acting as Chair Pro Tem. All votes shall be a simple majority.

(Amended by Ord. No. 09-10)

15-12-15. REVIEW BY PLANNING COMMISSION.

(A) General planning and review of specific Development projects by the Planning Commission shall be divided into the following functions:

- (1) City General Plan and General Plan amendments review and recommendation to City Council;
- (2) Annexation and zoning review with recommendation to City Council;
- (3) Land Management Code and re-zoning review with recommendation to City Council;
- (4) Subdivision approval with recommendation to City Council;
- (5) Large scale Master Planned Development approval;
- (6) Conditional Use permit ratification of findings of fact, conclusions of law and conditions of approval, if applicable;
- (7) Consent agenda items;

(8) Review of appeals of Planning Directors interpretation of the Land Management Code and decisions;

(9) Subdivision and record of survey plat and plat amendment review with recommendation to City Council;

(10) Formal termination of inactive applications;

(11) Sensitive Lands review; and

(12) Extension of Conditional Use permit and Master Planned Development approvals.

(B) The scope of review for each of these functions is as follows:

(1) **CITY GENERAL PLAN REVIEW.** The Planning Commission shall have the primary responsibility to initiate and update the City General Plan, including planning for adequate Streets and utilities, parks, trails, recreation facilities, housing, and open space. The Commission shall consider long-range zoning and land use objectives, protection of Sensitive Lands, and shall conduct periodic review of existing plans to keep them current.

(2) **ANNEXATION REVIEW.** The Commission shall review all annexation requests according to the Utah State Code regarding annexations, including Section 10-2-

401.5, regarding adoption of an annexation policy plan, and shall make a recommendation to City Council for action. The Commission shall recommend zoning on land to be annexed.

(3) **LAND MANAGEMENT CODE AND REZONING REVIEW.**

The Commission shall initiate or recommend zone changes and review the Land Management Code Development standards within zones. The Commission shall hear all requests for zone changes and forward a recommendation to City Council for action. The Commission shall have the primary responsibility to review amendments to the Land Management Code and shall forward a recommendation to the City Council.

(4) **SUBDIVISION APPROVAL.** The Planning Commission shall review all applications for Subdivisions under the provisions of the Park City Subdivision Control Ordinance in Section 15, Chapter 7.

(5) **LARGE SCALE MASTER PLANNED DEVELOPMENT APPROVAL.** All proposals for large scale Master Planned Development approval shall be reviewed by the Planning Commission. In reviewing requests for large scale Master Planned Development approval, the Commission shall consider the

purpose statements and MPD requirements as stated in Section 15-6-1 and Section 15-6-5. All Master Planned Developments shall be processed by the Planning Department and the Planning Commission as outlined in Section 15-6-4.

(6) RATIFICATION OF CONDITIONAL USE PERMITS.

The Planning Commission has the authority to review and ratify or overturn all actions of the Planning Department regarding Conditional Use permits. In reviewing requests for Conditional Use permits, the Commission shall consider the Conditional Use process and review criteria as stated in Section 15-1-10. In approving or denying a Conditional Use permit the Commission shall ratify and include in the minutes of record the findings of fact, conclusions of law, and conditions of approval, if applicable, upon which the decision to approve or deny was based.

(7) CONSENT AGENDA ITEMS. The following items may be placed on the consent agenda, if the Application is uncontested, or if a public hearing has already been conducted and has been closed by formal action of the Planning Commission:

- (a) Conditional Use permits, including Steep Slope Conditional Use permits;

- (b) Plat and plat amendment approvals;
- (c) Requests for time extensions of Conditional Use permit, Master Planned Development, and plat approvals.
- (d) Other items of a perfunctory nature, which the Chair directs the Department to place on the consent agenda for action.

All items on the consent agenda shall be passed or denied by a single motion at the Commission meeting, unless a motion to remove a specific item is made. If a member of the public or a member of the Planning Commission requests a public hearing on a consent agenda item, then the item shall be removed from the consent agenda. When an item is removed from the consent agenda, it shall be acted on at the same meeting at which the removal occurs, unless the Applicant requests the item be continued in order to prepare additional information to respond to the Commissions concerns.

(8) REVIEW OF APPEALS OF THE PLANNING ~~STAFF'S~~ INTERPRETATION OF THE LAND MANAGEMENT CODE.

The Owner, Applicant, or any non-Owner with standing as defined in Section 15-1-18(D) of this Code may request that Planning ~~Staff~~Final

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Action on a project be reviewed by the Planning Commission. The standard of review by the Planning Commission shall be the same as the scope of review at the Staff level. Appeal process shall be in accordance with Section 15-1-18.

Appeals shall be heard by the Planning Commission within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.

(9) SUBDIVISION AND RECORD OF SURVEY PLAT AND PLAT AMENDMENT REVIEW. The Commission shall review all plats affecting land within the City limits or annexations to the City, according to Section 15-7. The scope of review on plat approval is limited to finding substantial compliance with the provisions of the state statute on recording of plats, and that all previously imposed conditions of approval, whether imposed by the Staff or the Commission have been satisfied.

Upon finding that the plat is in compliance with the state statute, and that conditions of approval have been satisfied, the plat must be approved. The City Engineer, City Attorney, City Recorder, City Council, and Mayor shall all review the plat as required by statute before recording. Plats may be approved on the consent agenda.

(10) TERMINATION OF INACTIVE APPLICATIONS. See Termination of Projects, Section 15-1-14.

(11) SENSITIVE LANDS REVIEW. Any project falling within the Sensitive Lands Area Overlay Zone is subject to additional requirements and regulations as outlined in the Sensitive Area Overlay Zone Regulations, Section 15-2.21.

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(12) EXTENSION OF CUP AND MPD APPROVAL. See extension of Conditional Use Permit, Section 15-1-10(G) and MPD Section 15-6-4(H), Length of Approval.

(Amended by Ord. Nos. 06-35; 09-10)