

CHAPTER 28. ADMINISTRATIVE HEARING OFFICER

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1-28-1. Appointment; qualifications.

(1) The Mayor, with the consent of the City Council, shall appoint one or more Administrative Hearing Officers (“Hearing Officer”) to hear appeals of certain administrative actions and decisions.

(2) The Hearing Officer shall be a resident of Tooele City and shall possess such qualifications as the Mayor may determine necessary for the fair and thorough determination of facts and application of law.

(3) The Hearing Officer may not be an elected official or a City employee.

(4) The Mayor may revoke the appointment of a Hearing Officer with the consent of the City Council. (Ord. 2015-11, 03-18-2015) (Ord. 2013-07, 04-17-2013)

1-28-2. Duties.

(1) The duty of the Hearing Officer shall be to hear appeals of administrative actions or decisions as authorized by this Code.

(2) The Hearing Officer shall be the appeal authority in the event that this Code does not expressly provide an appeal authority for administrative actions or decisions related to the interpretation, application, or enforcement of the City’s land use ordinances. (Ord. 2013-07, 04-17-2013)

1-28-3. Appeal and hearing procedure.

(1) Unless provided specifically elsewhere in this Code, this Chapter shall govern appeals to the Hearing Officer. Where other provisions of this Code fail to address procedural matters addressed by this Chapter, this Chapter shall govern those procedural matters.

(2) Where authorized by this Code, any person directly adversely affected by an administrative action or decision of Tooele City may file a written appeal in the office of the City Recorder within 10 calendar days of the administrative action or decision being appealed.

(3) The appeal shall contain the name, address, and telephone number of the appellant, the date of the appeal, and the legal and factual grounds for the appeal, which grounds shall determine the scope of the administrative appeal hearing, hearing evidence, and judicial review of the Hearing Officer decision. The appeal shall include a copy of the written action decision, if applicable, that is the subject of the appeal.

(4) The Hearing Officer shall determine a schedule for the pre-hearing exchange of evidence, for the briefing of legal arguments, and for the hearing, and shall notify

the parties of that schedule.

(5) The appellant may file a brief summarizing facts, evidence, and law applicable to the appeal, within the scope of the grounds stated in the appeal, and the City may file a responsive brief, both in accordance with the schedule established by the Hearing Officer.

(6) The Hearing Officer may accept any evidence he or she deems reliable. Evidence shall be submitted by proffer. The Hearing Officer may also allow witness testimony. The Hearing Officer shall not consider evidence or information not presented by the parties at the hearing or in pre-hearing briefs.

(7) In the appeal and the hearing, the City bears the burden of proving that substantial evidence exists to support the administrative action or decision being appealed.

(8) The parties may be represented by legal counsel in the hearing.

(9) Each party may cross-examine any witnesses called to testify by the other party. Each party must secure the attendance of their own witnesses.

(10) The Hearing Officer shall provide for the hearing to be recorded.

(11) The hearing shall be public.

(12) The Hearing Officer shall enforce principles of civility during the hearing. (Ord. 2013-11, 06-19-2013); (Ord. 2013-07, 04-17-2013)

1-28-4. Decision.

(1) The Hearing Officer shall prepare written findings of fact and a decision (collectively “Decision”) within a reasonable time after the hearing.

(2) The Decision shall be final for purposes of issuance on the date it is signed by the Hearing Officer

(3) The Decision shall be considered issued for purposes of appeal and enforcement on the date of transmittal to the appellant, either by mail, fax, email, or otherwise.

(4) The Hearing Officer shall cause the Decision to be transmitted to the parties by any reasonable means, including personal delivery, mail, fax, or email.

(5) The Decision shall be maintained in the office of the Tooele City Recorder. (Ord. 2013-07, 04-17-2013)

1-28-5. Appeals to District Court.

(1) Any party to the appeal may appeal the Decision to the District Court no later than 30 calendar days after the issuance of the Decision.

(2) The standard of review to be employed by the District Court in its review of the Decision shall be substantial evidence in the record. The review shall not be *de novo*.

(3) For purposes of this Code, the term “substantial evidence” shall mean that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion. This standard does not require or specify a quantity of evidence but requires only such

relevant evidence as a reasonable mind might accept as adequate to support a conclusion.
(Ord. 2013-07, 04-17-2013)

1-28-6. Hearing record.

(1) The record of the hearing shall include all proffered evidence that is admitted by the Hearing Officer, all pre-hearing briefs submitted to the Hearing Officer, the audio recording of the hearing, and the Decision.

(2) Any party may make an audio or video recording of the hearing, but only the recording prepared by the City shall be considered part of the record of the hearing.
(Ord. 2013-07, 04-17-2013)

1-28-7. Appeal fees.

The City Council may require by resolution the payment of fees associated with appeals heard by the Hearing Officer.
(Ord. 2013-07, 04-17-2013)