CITY OF LOGAN
ORDINANCE NO. 02-62

AN ORDINANCE AMENDING LOGAN MUNICIPAL CODE, 1989, TITLE 5, "BUSINESS LICENSES AND REGULATIONS" CLARIFYING THE APPEALS PROCESS

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN AS FOLLOWS:

SECTION 1: Title 5, Business Licenses and Regulations," is hereby amended to read as set forth in the attachment.

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

PASSED BY THE LOGAN MUNICIPAL COUNCIL, STATE OF UTAH THIS
OF __________________, 2002 by the following vote:

Ayes: Kerr, Park, Allred, S. Thompson
Nays: None
Absent: Burg

ATTEST:

Lois Price, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval on the ____________________ day of ____________________, 2002.

Tom Kerr, Chairman

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this ____________________ day of ____________________, 2002.

Douglas E. Thompson, Mayor
§5.02.140 Applicant information referred to police department.  

Applicants for a business license will have their business and personal identification information referred to the police department by the administrator for police-record review and police department response prior to administrator approval, conditional approval or denial of the business license application. A background check.

Denial-by-the-City-police-department. An applicant's criminal background may be grounds for denial of the license application if: the applicant's record contains when-the-reason-for-the-police-denial-is-based-on-applicant convictions for violations of any city, county, state or federal laws or other verifiable issues which may create a menace demonstrate a potential risk to the health, safety, peace or general welfare of the city or its inhabitants; or if there are unresolved warrants for any applicant; or any other reason expressly provided for in this chapter.

Applicants may appeal license application denial by submitting a request to the director of the department of community development pursuant to the appeals process identified in Title 17 of this code. (Ord. 97-76 §1(part), 1997)

§5.02.160 Appellate process.

Applicants and licensees may appeal license denial, revocation or suspension by submitting a request to the director of the department of community development pursuant to the appeals process identified in Title 17 of this code. (Ord. 97-76 §1(part), 1997)

A. Purpose.

The purpose of this section is to provide uniform appeals procedures for business license actions of the City, including: application denial; conditional approval of the license; and license denial, non-renewal, revocation, or suspension.

B. Filing: Appeals.

1. All administrative appeals are filed in writing with the Business License Administrator (administrator) in the Business License Division (division) of the city of Logan within fifteen calendar days of the action being appealed. An appeals application not filed in the above-specified division shall not constitute a filing for purposes of meeting the fifteen-day limit.

2. Appeals filed with District Court shall be filed in conformance with the requirements of State law and Court procedures. Nothing in this chapter is intended to imply changes to, or otherwise override, standard procedures and timelines of District Court.

C. Body to hear appeals—License Review Board.

1. Purpose: The License Review Board shall act as a governing board over the business license appellate process when licenses, consents or permits have been suspended, revoked, denied, or not renewed by the
2. Board composition: The license review board shall be appointed by the mayor and shall be comprised of two citizens of Logan and three employees of the city, including the economic development director, the community development director, and the chief of police, or their designees. Alternate department head(s) shall be assigned by the mayor to participate on the board if conflict of interest issues arise for board members/designees employed by the city. The business license administrator shall not serve as a member of this board.

3. Board decision: Following the hearing, the board shall render a decision based on a simple majority vote by a quorum of the board, and shall present their decision to the mayor for final determination.

4. Board quorum: A quorum shall be comprised of at least three members of the board with no less than one citizen member of the board present.

5. Split vote: Should a split vote occur due to an even number of members present, the decision being appealed will stand.

D. Standing to file an appeal.
The licensee, applicant, proponent, or any affected party may file an appeal of a decision by the administrator. In the case of death or health-related disability of the applicant, rendering that individual unable to request or participate in the appeal process, the applicant's designee may proceed on behalf of the applicant.

E. Contents of the request for an appeal: Minimum requirements.
At a minimum, the request for an appeal shall be filed in writing and include the following:
1. The name of the person or persons filing the appeal, a mailing address, and daytime telephone number;
2. The business name and the identification number assigned by the administrator in the action/appeal process notification;
3. The date of the action notice;
4. Any required appeal application fee;
5. The specific issues being appealed:
   a. If the license was conditionally approved and specific conditions are being appealed, the request for an appeal shall specify the conditions being appealed and the reason(s) for the appeal;
   b. If the license was approved without conditions, the request for appeal shall specify the actions taken that have generated the appeal request;
   c. If the application was denied or the license was suspended, revoked or not renewed, the request for appeal shall specify the findings used by the administrator or other decision-maker(s) that have generated the appeal request;
6. A statement shall be included demonstrating applicant's standing as set forth in subsection D of this section.
7. Incomplete applications unacceptable.
An incomplete application for an appeal shall not be accepted. Submitting an incomplete application shall not waive, defer, or delay the fifteen-day appeal deadline.

F. Staff report required.
The administrator rendering the decision being appealed shall provide the board and appellant with a written report or memorandum explaining the basis of the decision or interpretation.

G. Appeal meeting.
Not less than fourteen days following the receipt of the application for appeal, the License Review Board shall hold a meeting to hear the appeal. At that meeting, the Board shall hear the administrator's report including a summary of the action being appealed, clarification by the other decision-maker(s) involved, as needed, and the testimony of the appellant and any additional proponent(s) of the appeal. The Board may take testimony and comments from the general public, and it may consider new information and facts in reaching its decision.

H. Decision of the appeal.
The Board shall render its decision at the meeting by majority vote of the members present; unless the matter is continued to a future meeting pending a request of the Board for more information. The Board may overturn the administrator on the basis of its findings. It may uphold the administrator, or if new information is presented that was not previously presented to the administrator, the Board may return the matter to the administrator for new proceedings. The action of the Board is the final administrative procedure within the City's process.

I. Findings required to overturn or modify the decision-maker's action.
If the Board overturns or modifies the action of the administrator, the Board shall make findings substantiated in conformance with the requirements of procedures for the type of action being appealed. If the Board upholds the appealed action, no additional findings are required, the Board's action automatically affirms the previously adopted findings. The Board may, upon upholding the administrator, add, clarify, or enhance findings based upon the facts of the appeal meeting.

§5.10.050 Appellate process—License review board.
The license review board shall act as a governing board over the business license appellate process when licenses, consents or permits have been suspended, revoked, denied or not renewed by the administrator or when applications have been denied by the administrator. The license review board shall be appointed by the mayor and shall be comprised of two citizens of Logan and three employees of the city, including the chief of staff, community development director, and chief of police, or their designees, or alternate department head(s) assigned by the mayor if conflict of interest issues arise for board members/designees employed by the city. The license review board shall have the responsibility of hearing the issue presented by the complainant, by any denying official and by the business license administrator. The board shall then render a decision based on a simple majority vote by a quorum of the board, and shall present their decision to the mayor for final determination. A quorum shall be comprised of at least three members of the board with not less than one citizen member of the board present. Should a split vote occur due to an even number of members present, the mayor will render the tie-breaking vote. The
§5.29.360 Appeal procedures.

The denial, conditional approval, probation, suspension, or revocation of any license issued pursuant to this chapter may be appealed as set forth in Chapter 17 of the Logan Municipal Code. (Ord. 98-68 §1 (part), 1998) Section 5.02.160 of this chapter.
On this 8th day of October, 2002, personally appeared before me Rachelle S. Thomas who being first duly sworn, deposes and says that she is the chief clerk of the Cache Valley Publishing Co., publishers of The Herald Journal, a daily newspaper published in Logan, City, Cache County Utah, and that the advertisement

LEGAL NOTICE

a copy of which is hereto attached, was published in said newspaper for One (1) issue

commencing October 5, 2002 and ending October 5, 2002.

Signed Rachelle S. Thomas

Subscribed and sworn to before me, the day and year above written.

Signed

Notary Public


LEGEND:

SUMMARIES OF ORDINANCES amending the Logan Municipal Code, 1989, passed by the Logan Municipal Council are as follows:

ORD. 02-53. An ordinance amending Section 2.02.080, "Parks and Recreation Advisory Board," to change the composition of the seven-member board.

ORD. 02-54. An ordinance amending Section 6.06.010, "Moving Buildings," to change the procedures for moving buildings of the City, including application denial, conditional approval of the license, and license denial or approval.

ORD. 02-60. An ordinance, added Section 17.24.050, "Structure Relocations," to the Land Development Code, dealing with the relocation of buildings, manufactured homes, and similar movable structures, manufactured "buildings," and similar movable structures. (The Ordinance does not apply to the moving of mobile homes into a mobile home park.) The Ordinance sets standards for structure relocation. Among these are compliance with codes, obtaining building and conditional use permits, and investigation by the Chief Building Official. This ordinance also regulates existing, relocated structures.

Existing relocated structures are required to comply with the regulations of the chapter within 48 days from the adoption of the Ordinance. Extensions may be granted by the Director of Community Development or the Board of Public Utilities.

Section 15.24.010 Moving Buildings

ORD. 02-02. An ordinance amending Title 16, "Business Licenses and Regulations," was adopted September 18, 2002 and approved September 25, 2002, clarifying the applicable provisions of Section 6.06.010, providing for business licenses, including application denial, conditional approval of the license, and license denial or approval.

These ordinances are effective immediately upon publication.

Full text of the ordinances may be reviewed at the office of the City Recorder, City Hall, 100 Albert Street, during regular office hours.

Lois Price, Recorder

Publication Date: October 5, 2002.