

STAFF USE ONLY  
GL: 103413100 Dist. Code: 324

FEE: \$500 + \$25 NEWSPAPER PUBLIC NOTICE FEE



SARATOGA  
SPRINGS  
PLANNING

*Applications submitted before 12:00 p.m. on Tuesday will be discussed at an internal Development Review Committee (DRC) meeting on the following Monday. First round of comments anticipated complete after 10 business days.*

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**APPLICATION  
UPDATED JANUARY 2021**

**PROJECT NAME:** \_\_\_\_\_

**Decision being appealed:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Applicant:** \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ E-mail: \_\_\_\_\_

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**Authorized Agent:** \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ E-mail: \_\_\_\_\_

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## Supporting Materials

The following items must be submitted with this completed application:

1. Letter describing the appeal. A letter which specifically describes the decision being appealed and the reason for the appeal.
  - The application shall set forth all allegations of error to the Hearing Examiner. Any allegation not made in the application shall be waived, unless the new allegation was made pursuant to an amended application within the same time limits as the original application. No time periods shall be extended or tolled.
  - The supporting materials must address the requirements for an appeal found in Chapter 19.03.
2. Fee. The processing fee of \$500 shall be paid in full. A Newspaper Public Notice fee of \$25 per advertisement shall also be paid in full.

### APPLICANT CERTIFICATION

I certify under penalty of perjury that this application and all information submitted as a part of this application are true, complete and accurate to the best of my knowledge. Should any of the information or representations submitted in connection with this application be incorrect or untrue, I understand that the City of Saratoga Springs may rescind any approval, or take any other legal or appropriate action. I also acknowledge that I have reviewed the applicable sections of the Saratoga Springs Land Development Code and understand the appeal requirements and the appeal process.

Property Owner's Name: \_\_\_\_\_

Property Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **Appeal Procedure:**

### **19.03.01. Levels of Administrative Review.**

As set forth in this Chapter, there shall be multiple levels of land use development review in the City to accommodate the advisory, recommendation, approval, and appeal processes, as follows:

#### **4. Appeal.**

- a. All proposed land use development decisions, as impacted under this Title and meeting the requirements of this Title and state statute, shall be entitled to appeal before the Hearing Examiner, upon appropriate application.
- b. As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with this ordinance.

### **19.03.09. Appeal Authority for Certain Limited Matters; Terms.**

1. For only the actions listed in Section 19.03.12, there is hereby created an Appeal Authority, which shall be composed of a Hearing Examiner who shall be appointed by the Mayor with advice and consent of the City Council.
2. A Hearing Examiner:
  - a. shall act in a quasi-judicial manner and serve as arbiter of issues involving the interpretation or application of land use ordinances;
  - b. may not have a personal or financial interest in the matter being considered;
  - c. may not be a City employee;
  - d. may not live in the City of Saratoga Springs;
  - e. may not entertain an appeal of a matter in which he or she had first acted as the land use authority; and
  - f. shall be administered the oath of office after being appointed and before administering an appeals hearing.

### **19.03.10. Hearings Conducted by the Hearing Examiner.**

1. The Hearing Examiner shall conduct hearings, may administer oaths to witnesses, may compel the attendance of witnesses, and may subpoena witnesses, documents, and other evidence. However, the Hearing Examiner may only subpoena witnesses, documents, or other evidence if there is an inadequate record. If written minutes and staff reports with adopted findings and conditions are available, it shall be presumed that there is an adequate record.
2. The City Recorder shall keep minutes of the appeal hearing.
3. The written minutes and records, along with the appeal application, written statements, and other facts bearing on the appeal and decision of the Hearing Examiner, shall be filed in the office of the City Recorder and shall be a public record.

4. The City Recorder shall make an audio recording of the proceedings of the Hearing Examiner and a copy may be requested from the City Recorder in accordance with the City's policies for public records requests.

**19.03.11. Powers and Duties of the Hearing Examiner.**

The powers and duties of the Hearing Examiner shall be limited to the following:

1. to hear and decide appeals from a land use decision, requirement, refusal, or other decision made in interpreting and applying the land use ordinance;
2. to hear and decide variances, as defined in state law, from the area, width, setback, or other terms of the land use ordinance, except a use variance shall not be granted; and
3. to act in a quasi-judicial manner and serve as the final arbiter of issues involving the interpretation or application of land use ordinances.

**19.03.12. Powers of the Hearing Examiner Limited.**

1. The powers and duties of the Hearing Examiner are limited to those set forth in this Chapter and Title. The Hearing Examiner shall not have the authority to amend this ordinance or to act outside of the authorized rules set forth in Utah Code Chapter 10-9a.
2. No decision shall be made in such a way so as to destroy the intent and purpose of the land use ordinance.
3. The Hearing Examiner's decisions are subject to review only according to the provisions of Utah Code Chapter 10-9a.
4. The Hearing Examiner shall not have authority to hear appeals of legislative decisions made by the City Council including zoning decisions, development agreement approval, land use ordinance amendments, vacation of public streets and rights-of-way, and General Plan amendments.

**19.03.13. Requests to Appear Before the Hearing Examiner.**

1. Any adversely affected person or entity wishing to appeal a decision made by the Planning Director, Planning Commission, City Council, or other land use authority in applying the land use ordinance, or to request a variance, may commence such action by submitting a complete application to the Planning Director and paying the applicable filing fees.
2. The Planning Department shall accept and process such forms only if they are properly completed and accompanied by the filing fee in the current amount set by the City Council. To be heard at any meeting of the Hearing Examiner, such forms must be received in proper form with the filing fee properly filed within ten calendar days of the date the contested decision was issued in writing, or it shall be time-barred and not heard.

3. The application shall set forth all allegations of error to the Hearing Examiner. Any allegation not made in the application shall be waived, unless the new allegation was made pursuant to an amended application within the same time limits as the original application. No time periods shall be extended or tolled.
4. The applicant shall bear the burden of proof that an error was made.

**19.03.14. Hearing Examiner Appeal Procedure.**

1. Upon receipt of the request forms, the Planning Director shall forthwith notify the Hearing Examiner, and notice shall also be given as required elsewhere by this ordinance and state law.
2. If the Hearing Examiner finds that the request forms were properly filed and the filing fee paid, the Hearing Examiner shall hold a public hearing within 45 days and take action on the request within 30 days after the hearing.
3. Decisions of the Hearing Examiner shall become effective at the time a written decision is issued.

**19.03.15. Hearing Examiner Appeal Hearing.**

1. The Hearing Examiner shall fix a reasonable time for hearing the appeal. The City Recorder shall provide public notice by publication at least five days prior to the date of the hearing.
2. The intent in requiring a hearing is to enable the Hearing Examiner to obtain facts surrounding the case which may not be evident, or which may not be shown in the written record submitted to the Hearing Examiner.
3. The decision of the Hearing Examiner shall be based upon the facts and not upon expressions of support or protest, or lack of support or protest, which may be made at the hearing.
4. Any party may appear at the hearing in person or through an agent or attorney.
5. All appeal hearings shall be open to the public and shall be recorded.

**19.03.16. Action Taken by the Hearing Examiner; Standard of Review for Appeals.**

1. **Review.** An appeal shall be reviewed only when the Hearing Examiner finds that the adversely affected party has complied with and completed all of the forms, procedures, and rules.
2. **Approval.** If an appeal or variance request is approved, the Hearing Examiner shall enter into the official minutes the specific reasons for approval and any conditions or limitations of the approval.
3. **Denial.** If the decision of the Hearing Examiner is to deny an appeal or variance request, the Hearing Examiner shall enter into the official minutes the specific reasons for denial.

4. **Standard of Review.** In determining whether to approve or deny the appeal, the Hearing Examiner shall:
  - a. Presume that the decision is valid;
  - b. Review the record to determine whether the decision was arbitrary, capricious, or illegal; and
  - c. Affirm the decision if it is supported by substantial evidence in the record.

#### **19.03.17. Rules for Hearing and Deciding Appeals.**

When the Hearing Examiner acts under his or her power to hear and decide appeals for authorized matters, the Hearing Examiner shall not grant the reversal or relief appealed for unless it finds that all of the following standards have been met:

1. The appellant has paid the applicable application fee and filed a properly completed application for appeal, which states with specificity the nature of the alleged error and how the appellant has been adversely affected by such alleged error.
2. The application for appeal was properly filed with the Hearing Examiner within 10 calendar days of the decision being appealed.
3. The appellant must have been adversely affected by the subject decision applying the land use ordinance.
4. If the appellant fails to list any allegation of error to the Hearing Examiner, the appellant shall lose all rights to appeal to district court the allegation not made.
5. The decision being appealed must be a decision in applying and interpreting this Title, Chapter 10-9a of the Utah Code, or a land use ordinance of the City of Saratoga Springs.
6. If the Hearing Examiner grants the appellant's request, the decision must be consistent with the provisions of the land use ordinance and not waive or modify any of the terms or requirements thereof.
7. The appellant has the burden of proving that an error was made and must clearly meet that burden based on the facts presented for the record; expressions of support, protest, or other public clamor shall not constitute the basis of approval or denial.