

CHAPTER 3. APPEAL AUTHORITY

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9-3-1: Appointment, Term and Removal.

The Kane County Appeal Authority shall consist of one person and shall be appointed by the Kane County Commission for a term of five years. Appointee may be removed, for cause, by the appointing authority upon written charges which are reviewed at a closed session of the Kane County Commission.

The Kane County Commission may appoint an interim Appeal Authority person in the event that the regular person is temporarily unable to act owing to absence from the County, illness, disability, interest in a case before the Appeal Authority or other reason deemed appropriate by the Kane County Commission.

9-3-2: Meetings.

The Kane County Appeal Authority shall meet on an “as required” basis. It shall act in a quasi-judicial manner, administer oaths and compel attendance of witnesses. The Appeal Authority shall keep minutes of its proceedings and keep records of its examinations and other official actions. Meetings and records are open and available to the public.

9-3-3: Powers of the Appeal Authority.

The Kane County Appeal Authority shall hear and decide:

- a. Requests for variances from the terms of the Land Use Ordinances; and
- b. Appeals from decisions applying to the Land Use Ordinances.

Where it is alleged that there is error in any order, requirement, decision or determination made by an administrative board or official in the enforcement of this ordinance pursuant to Title 17-27a-702, Variances, and 17-27a-703, Appealing a Land Use Authority's Decision, Utah Code Unannotated 2012, as amended,

- c. The Kane County Appeal Authority shall not have the power to waive or modify the terms or requirements of the Land Use Ordinances.

9-3-4: Appeals.

Appeals to the Kane County Appeal Authority may be pursued by any person or aggrieved party by their inability to obtain a building permit, or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of this Ordinance. Appeals to the Appeal Authority may be taken by any officer, department, board or bureau of the County affected by the grant or refusal of a building permit or by other decisions of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of this Ordinance. The time within which such appeal must be made, and the form or other procedure relating thereto, shall be as specified in the general rules of procedure adopted by such an Appeal Authority provided further, that said rules and regulations shall be available to the public at the office of the Land Use Authority.

1. Time to Appeal – aggrieved party has thirty (30) calendar days from receipt of written decision to submit an appeal to the Appeal Authority.

9-3-5: Stay of Proceedings Pending Appeal.

An appeal stays all proceedings in furtherance of the action appealed from:

- Unless the officer from whom the appeal is taken certifies to the Appeal Authority, after the notice of appeal shall have been filed with him, that by

reason of facts stated in the certificate of stay would in his opinion cause imminent peril to life or property.

- In such case proceedings shall not be stayed otherwise than by restraining order which may be granted by the Appeal Authority or by the district court on application and notice and on due cause shown.

9-3-6: Notice of Hearing of Appeal – Right of Appearance.

The Kane County Appeal Authority shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest. At the hearing any party may appear in person or by agent or by attorney.

9-3-7: Decision on Appeal.

In exercising the above mentioned powers such Appeal Authority may in conformity with the provisions of this Ordinance 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 officer from whom the appeal is taken.

9-3-8: Final Decision.

A decision of the Appeal Authority takes effect on the date the Appeal Authority issues its written decision.

9-3-9: Judicial Review of Appeal Authority’s Decision Time Limitation.

Kane County or any person aggrieved may have and maintain a plenary action for relief there from in any court of competent jurisdiction; provided petition for such relief is presented to the court in writing within thirty (30) days after the filing of such decision in the office of the Appeal Authority.

9-3-10: Time Limitation on Variance.

If the Kane County Appeal Authority grants a variance in accordance with the provisions of this chapter, alterations in accordance with the variance must be initiated within six months after the date variance is granted or variance becomes null and void. The time limit of the variance may be extended an additional six

months by the Appeal Authority, and then only if the petitioner shows adequate cause to the Appeal Authority that circumstances necessitates a time extension.

9-3-11: Filing Fee.

Upon filing of any appeal or application of the Kane County Appeal Authority, the appellant or applicant shall pay to the County a fee prescribed by the County Commission. The said fee shall be collected by the officer in whose office said appeal is filed and shall be deposited with the County Treasurer and credited to the general fund. No appeal or application shall be considered by the Appeal Authority unless and until such fee has been paid.

9-3-12: Compensation of the Appeal Authority.

The Kane County Appeal Authority shall be compensated by an amount established by the County Commission for each meeting of the Appeal Authority which he or she shall attend.