

MILLCREEK, UTAH
ORDINANCE NO. 23-01

**AN ORDINANCE AMENDING SECTION 2.82.100 OF THE MILLCREEK CODE OF
ORDINANCES REGARDING APPEALS OF THE CITY'S CLASSIFICATION OF A
RECORD, THE FEES CHARGED FOR A RECORD, OR BY A RESPONSE TO A
RECORD REQUEST**

WHEREAS, on January 10, 2022, the Millcreek Council (the "*Council*") met in a special meeting to consider, among other things, an ordinance amending Section 2.82.100 regarding the City's classification of a record, the fees charged for a record, or by a response to a record request; and

WHEREAS, staff has identified a technical error in the appeal process and has made recommendation to correct the error; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety, and welfare of the residents of the City to amend Section 2.82.100 regarding the City's classification of a record, the fees charged for a record, or by a response to a record request.

NOW, THEREFORE, BE IT ORDAINED by the Council that Section 2.82.100 be amended as follows (interlineating the words to be deleted and underlining the words to be added):

2.82.100 Appeals

Persons aggrieved by the city's classification or designation of a record, an access decision, the fees charged for a record, or a response to a record request may appeal the determination to the mayor as provided in Utah Code §63G-2-401. The city manager shall be the city's chief administrative officer for purposes of such an appeal. Appeals of the chief administrative officer's decision shall be as provided in Utah Code §63G-2-402.

- ~~1. Persons aggrieved by the city's classification of a record, the fees charged for a record, or by a response to a record request may request and be granted an initial administrative appeal of that grievance, in accordance with policies and procedures adopted by the council. The initial administrative appeal is made to the mayor.~~
- ~~2. A written notice of appeal shall be filed with the mayor-designee within thirty calendar days after notice of the decision being appealed has been sent. The notice of appeal shall state the basis of the appeal and the relief requested.~~
- ~~3. Unless otherwise stipulated by the city and the persons aggrieved, the mayor-designee shall have seven calendar days after the designee's receipt of the notice of appeal (or fourteen calendar days after the city sends a notice of appeal to a person who submitted a claim of business confidentiality) to respond to the record request.~~

4. ~~The mayor designee shall hear the appeal using a reasonable process chosen within designee's discretion and issue decision in writing to appellant.~~
5. ~~In the event the mayor or designee affirms the access denial or fails to respond to the records request within the time limits listed above, the person aggrieved may then appeal the decision to affirm the access denial.~~
6. ~~The administrative appeal is made to the mayor.~~
7. ~~A written notice of appeal shall be filed with the mayor within thirty calendar days after notice of the decision being appealed has been sent. The notice of appeal shall state the basis of the appeal and the relief requested.~~
8. ~~Unless otherwise stipulated by the city and the persons aggrieved, the mayor shall have seven calendar days after the mayor's receipt of the notice of appeal (or fourteen calendar days after the city sends a notice of appeal to a person who submitted a claim of business confidentiality) to respond to the record request.~~
9. ~~In the event the mayor affirms the access denial or fails to respond to the records request within the time limits listed above, the person aggrieved may then appeal the mayor's decision to affirm the access denial.~~
10. ~~The city hereby establishes an appeals board to decide an appeal of a decision of the mayor affirming an access denial. An appeals board shall be composed of three members:
 1. ~~one of whom shall be an employee of the city; and~~
 2. ~~two of whom shall be members of the public, at least one of whom shall have professional experience with requesting or managing records.~~~~
11. ~~The city shall send written notice by certified mail of the date and location of the appeal hearing to be heard by the appeals board to the requester within seven calendar days of receiving notice of the appeal. The city shall also send written notice to the mayor.~~
12. ~~The appeal hearing shall be conducted in accordance with policies adopted by the council and with the Utah Open Meetings Act.~~
13. ~~No later than seven calendar days after an appeal hearing, the appeals board shall issue a signed order upholding, amending, or reversing the appealed action.~~
14. ~~Either the city or the appellant may appeal the appeals board decision to the state records committee or by filing a petition for judicial review with the district court.~~

PASSED AND APPROVED this 10th day of January, 2022.

MILLCREEK

By: _____
Jeff Silvestrini, Mayor

ATTEST:

Elyse Sullivan, City Recorder

Roll Call Vote:

Silvestrini	Yes	No
Catten	Yes	No
DeSirant	Yes	No
Jackson	Yes	No
Uipi	Yes	No

CERTIFICATE OF POSTING

I, the duly appointed recorder for Millcreek, hereby certify that:
**ORDINANCE 23-01: AN ORDINANCE AMENDING SECTION 2.82.100 OF THE
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was passed and adopted the 10th day of January 2023 and certifies that copies of the foregoing
Ordinance 23-01 were posted in the following locations within the municipality this ____ day of
January, 2023.

1. Millcreek City Hall, 3330 S. 1300 E., Millcreek, UT 84106
2. Millcreek Community Center, 2266 E. Evergreen Ave., Millcreek, UT 84109
3. Holladay Lions Recreation Center, 1661 E. Murray Holladay Rd., Millcreek, UT 84117

Elyse Sullivan, City Recorder