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# 1. Chapter 1: GENERAL PROVISIONS and PROCEDURES

This Chapter describes the General Rules and Regulations necessary to effectively administer the Town of Wallsburg Development Code. Procedures for permitted use and conditional use applicants are defined. Code and Zoning amendments, as well as appeal procedures and non-conforming uses are explained in detail. The infrastructure impact review process is also emphasized throughout the permitting procedure. Other important procedures and provisions are defined in this Chapter as well.

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## ***1.1. Short Title***

This ordinance shall be known as the Town of Wallsburg Development Code, and is referred to herein as this Code, this Development Code or the Code.

## ***1.2. Authority, Legislative Intent and Statement of Purpose***

The Town Board of Wallsburg adopts this Code pursuant to the Municipal Land Use Development and Management Act, Title 10, Chapter 9, of the Utah Code Annotated (U.C.A.) and such other authorities and provisions of Utah statutory and common law that are applicable.

This Code contains standards, provisions and requirements intended to protect the health, safety and welfare of the citizens of Wallsburg by ensuring that neighbors and adjacent and neighboring properties are protected from potential negative impacts in developing and using a parcel of land. It is further the intent to provide a means of ensuring predictability and consistency in the use of land and guiding and directing the development of land to achieve a balance in realizing the desires of property owners and the citizens of Wallsburg. The purpose of the Code is to:

1. Promote a living environment that is safe and pleasant for individuals and families who choose to live in or visit Wallsburg.
2. Maintain current housing and neighborhoods and guide future residential development in a manner which enhances the current appeal of the town, rather than destroying the very atmosphere which makes Wallsburg an attractive place to live.
3. Enhance economic resources and opportunities by encouraging commercial and/or institutional development which is compatible with the rural residential nature of the town.
4. Provide for efficient traffic circulation that minimizes traffic volume on residential streets and provide non-motorized transportation/recreation corridors.
5. Continue to provide for the necessary infrastructure such as water, and drainage needed for increased residential, commercial, and other development.
6. Provide facilities which allow for needed community services, including the efficient functioning of government, sense of community, and the health and recreation of the citizenry.
7. Enhance the unique beauty, visual and aesthetic qualities of the community, and preserve and provide access to the important natural features of the area including the nearby foothills, waterways, canyons, flora and fauna.

It is the intention of the Town in adopting this Code to fully exercise all of the powers granted to the Town by the provisions of the Utah Land Use and Management Act, § 10-9a et seq. of the Utah Code Annotated, 1953, as amended, and all other powers granted by statute or by common law for the regulation of land uses and improvements. The intention of the Town is to assure the managed, proper and sensitive/critical development of land within Wallsburg and to protect and enhance the quality of rural life in general. This Code is intended to allow development in a manner that encourages the preservation of scenic values, the unique setting of Wallsburg, and provide for well-planned commercial and residential centers, smooth traffic circulation, and efficient delivery of municipal services. This Code seeks to prevent development impacted by existing geologic hazards, erosion, flooding, or other conditions that create potential dangers to life and safety in the community, or development that impacts critical wildlife habitats, or developments that detract from the quality of life in the community.

### ***1.3. Conflict With Other Laws or Ordinances***

The provisions of this Code are in addition to all other Town ordinances, laws of the State of Utah and United States, and applicable common law. This Code shall not supersede any private land use regulations in deeds or covenants which are more restrictive than this Code. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

### ***1.4. Effect on Previous Ordinances and Maps***

The existing zoning ordinances of Wallsburg, including the official zoning map adopted with those ordinances, are hereby amended in their entirety to conform to the provisions of this Code. This Code shall not be construed as affecting the term of office of any board or commission member appointed under the prior enactment. Structures built prior to the adoption of this ordinance, or for which building permits were issued and on which work commences as required under the permit shall, to the extent they do not conform to this ordinance, be considered as non-conforming uses, and shall not be affected hereby. Uses which were non-conforming under the old ordinance shall not be affected by this Code, unless this Code is changed in a manner that makes the use conforming to the new code or zone.

### ***1.5. Amendments to this Development Code and Zoning Map***

It may become desirable from time to time to amend the provisions of this Code or the zoning map. This Code should be constantly reviewed and improved upon to stay viable and useful to the Town. Any amendment to this Code or the zoning map should be consistent with the direction of General Plan. All amendments will be completed in the following manner:

#### ***1.5.1. Amendments***

Amendments to the provisions of this Code may be initiated by the Planning Commission, Town Board, an applicant for development approval, or member of the general public. Amendments may be initiated by, but are not necessarily limited to, the following reasons:

1. Allowing a use previously prohibited.
2. Prohibiting a use previously allowed.
3. Increasing or decreasing the density of the uses previously allowed.
4. Changing a permitted use to a conditional use.
5. Changing a conditional use to a permitted use.
6. Changing the zone of any property.
7. Procedural or regulatory changes, both minor or major.
8. Zone map amendments or modifications.
9. Repealing of any regulation or procedure.
10. Adding of any regulation or procedure.
11. Any other miscellaneous changes that may become necessary.

It should be noted that many amendments to the zoning map and development code may require an amendment to the General Plan as well. If a petition would require changes to the General Plan it should be so noted on the petition and the changes should be made concurrently.

#### ***1.5.2. Schedules for Zone Change or Code Amendment***

The Planning Commission and Town Board will review and hold public hearings on petitions for zone change or code amendments every four months provided that a petition is submitted no

later than sixty (60) days prior to the hearing. The public hearings shall be scheduled to occur on or about February 1, June 1, and October 1 of each year. Petitions for zone change or code amendments shall be received no later than sixty (60) days prior to the scheduled hearing. The Planning Commission may, on its own initiative or on the request of an applicant, hold a public hearing for zone change at such other time as the Commission may determine to be convenient and appropriate.

**1.5.3. *Petition for Zone Change or Code Amendment***

A petition to change the zoning of any land within Wallsburg or to amend this Code other than changing the zoning map, shall be filed first with the Planning Commission in a letter or on a form prescribed for that purpose. The form or letter shall contain a legal description of the land affected by the petition, and a statement of the petitioner's interest in the land included within the petition. The petition shall indicate the current zone of the property and the zone desired or the proposed code amendment. The petition shall also indicate the reasoning for the change as well as the proposed use of the property. A fee will be established for acting on a petition for a zone change or code amendment as described in the current Town Fee Resolution in effect at the time. (To change or amend the zone within a legally recorded subdivision, the petition must also include signatures of approval by the owners of at least fifty one (51) percent of the platted lots in the subdivision.) The petition must also include all of the names and mailing addresses of property owners within a one thousand (1000) foot radius of the property boundary under petition. The Town, at the applicants expense, shall notify each of the property owners on the petition.

**1.5.4. *Hearings before the Planning Commission***

The Planning Commission shall hold a public hearing on all petitions for zone change and code amendments and receive comments from citizens or property owners affected by the change. Notice of all zone change and code amendment hearings before the Planning Commission shall be given as set forth in Section 1.6 of this Code. The notice shall state generally the nature of the proposed amendment as outlined in Section 1.5.1 herein, the land affected, and the time, place, and date of the public hearing. The notice shall also state that more detailed information shall be available for public inspection at the Town Office, or other specified location at the time the notice is published. All such information shall be available prior to publication of the notice of public hearing.

**1.5.5. *Action by Planning Commission***

Following the hearing, the Planning Commission shall prepare a formal recommendation to be presented to the Town Board regarding the petition. The recommendation shall be to approve, deny, or modify and approve the petition. The Planning Commission shall act on the petition at the time of the hearing or at its next regularly scheduled meeting following the hearing, unless the proponent or petitioner has requested the matter be tabled for further consideration, or the petition is withdrawn. If the Commission fails to act within two (2) regularly scheduled meetings on the petition, the petition shall be deemed as a recommendation for denial by the Planning Commission and the petition shall be forwarded to the Town Board for their consideration with that recommendation.

**1.5.6. *Hearing before Town Board***

The Town Board shall hold a public hearing on the recommendation of the Planning Commission for all petitions for zone change and code amendments. Following the hearing, the Board shall approve, deny, or modify and approve the recommendation of the Planning Commission. The hearing may be continued, if necessary, without republication of notice. The recommendations of the Planning Commission are advisory only, and the Board may or may not adopt the recommendations of the Commission. Where the Board determines that a Planning Commission recommendation should be modified on issues not considered at a public hearing before the Commission, the Board may remand the recommendation back to the Commission for further review prior to taking final action. Board action on amendments to the zoning map or

this Code require the affirmative vote of three or more Town Board members. The Board may act on the petition at the time of the hearing or at subsequently scheduled meetings.

## **1.6. Notices**

Notice of hearings before the Planning Commission and Town Board concerning amendments to the General Plan, zoning map, and Development Code, preliminary and final subdivision plat approvals, appeals, variances and other requests of actions of the Board of Adjustment shall be provided in accordance with this section and describe the proposed action. Notice of amendments to the General Plan, this Code and zoning actions shall be given at least fourteen (14) days before the date set for the hearing. Notice of amendment or vacation of subdivision plats, when required, shall be given in accordance with State law. All other notice required herein shall be given at least fourteen (14) days before the date set for hearing, if a hearing is required under this Code. See Table 1.1 in this section for a general summary matrix of the notice requirements. All notice required under this section shall be given as follows:

### **1.6.1. Posted Notice**

The Town Staff or Planning Commission Chair shall post or cause to be posted notice in at least three public places within the Town, stating that an application concerning the development of that property has been filed, the date of the hearing, and that more detailed information concerning the application is available from the Town.

### **1.6.2. Published Notice**

Published notice, at the applicant's expense, shall be given by publication in a newspaper having general circulation in Wallsburg. Published notice shall state that an application has been filed affecting the subject property or that an appeal has been requested, the nature of the application or action, and the time, place and date set for a public hearing on the matter. The published date of the notice, not the date of submittal to the newspaper must meet any notification timing requirements designated in this Code.

### **1.6.3. Courtesy Notice**

As a courtesy to property owners, the applicant shall provide the Town with stamped and pre-addressed envelopes for each owner of record of each parcel located entirely or partly within one thousand (1000) feet from any boundary of the property subject to the application, together with a mailing list for those owners. The addresses for adjacent owners shall be as shown on the most recently available Wasatch County tax assessment rolls. The courtesy notice shall state that an application has been filed affecting the subject property or that an appeal or call-up has been made, the nature of the application or action, and the time, place and date set for public hearing on the matter. Courtesy notice is not a legal requirement, and any defect in courtesy notice shall not affect or invalidate any hearing or action by the Town Board or any board or commission.

### **1.6.4. Proof Of Notice**

Proof that notice was given pursuant to either Section 1.6.1 or 1.6.2, above is prima facie evidence that notice was properly given. If notice given under authority of this section is not challenged as provided for under State law within thirty (30) days from the date of the hearing for which the challenged notice was given, the notice is considered adequate and proper.

### **1.6.5. Other Public Meetings**

Notice shall be posted 24 hours in advance for regular meetings and as much notice as possible for emergency meetings.

### ***Wallsburg Application Notice Matrix***

<b>ACTION</b>	<b>POSTED</b>	<b>MAILED</b>	<b>PUBLISHED</b>
Amendment to Zoning Map or Rezone	At least 3 places, 14 days prior to each hearing before the Planning Commission and Town Board	To all owners of the property and all owners within 1000 feet, 14 days prior to each hearing	Once, 14 days prior to each hearing before the Planning Commission and Town Board
Amendment to this Development Code	At least 3 places, 14 days prior to each hearing before the Planning Commission and Town Board	-NA-	Once, 14 days prior to each hearing before the Planning Commission and Town Board
Amendment to the General Plan	At least 3 places, 14 days prior to each hearing before the Planning Commission and Town Board	-NA-	Once, 14 days prior to each hearing before the Planning Commission and Town Board
Preliminary and Final Subdivision Plat	At least 3 places, 14 days prior to each hearing before the Planning Commission and Town Board	To all owners of the property and all owners within 1000 feet, 14 days prior to each hearing	Once, 14 days prior to each hearing before the Planning Commission and Town Board
Appeals to Board of Adjustment - Variance Requests, etc.	At least 3 places, 14 days prior to each hearing before the Board of Adjustment	To all owners of the property and all owners within 1000 feet, 14 days prior to each hearing	Once, 14 days prior to each hearing before the Board of Adjustment

**Table 1.1 Application Notice Matrix**

#### **1.7. *Creation of Land Use Districts and Zone Map***

In order to carry out the purposes of this Code, land use districts have been established as set forth in the Town of Wallsburg General Plan and a zoning map has been established in Chapter 5 of this Code. The zoning map is adopted as a part of this Code and this Code is intended to be consistent with the zoning map. In interpreting the zoning map, the following standards shall apply:

1. The zoning boundary lines are intended to conform to existing property boundary lines when not in a public right-of-way, or to follow the center line of public rights-of-way (including prescriptive rights-of-way), unless the lines are located by specific dimensions, in which case the dimensions shall control. Where the zoning district lines approximately follow the lot lines as they exist at the date of adoption of this Code, the district lines shall be conformed to the lot lines.
2. Where the zoning district lines appear to have intentionally divided a lot or parcel between two or more districts, the applicable zoning for each portion of the lot or parcel shall be determined by using the scale shown on the map. If the placement of the district line cannot be determined, the standards of the zone allowing the less intensive land use shall be applied to the entire parcel.
3. Where the district lines are intended to follow natural land contours, such as the ridge tops, hillsides or waterways, the line shall be determined at the point at which the general slope of the land changes fifteen (15) percent in grade or in the case of waterways, the average centerline of the waterway. In the event of a dispute as to the location of the change in grade, the point shall be fixed with reference to

topographic data submitted to the Town. Where land of less than fifteen (15) percent slope is surrounded by land of fifteen (15) percent or greater slope, the Planning Commission may entertain an application to rezone the land of less than fifteen (15) percent slope to a suitable residential use if the Town Staff determines that the land is adequately accessible and not within a sensitive lands overlay zone or designation.

4. If the Planning Commission, Town Board, or member of the public requests an interpretation of a zoning district the matter shall be forwarded to the Board of Adjustment for an interpretation.

## **1.8. Penalties**

Any person, firm, partnership, or corporation, or the principals or agents thereof, violating or causing the violation of any provision of this Code, as the same may be amended from time to time, shall be subject to the following penalties.

### **1.8.1. Criminal Penalties**

Each violation of any provision of this Code shall be a Class "C" misdemeanor, punishable by a fine of not more than \$1,000.00 and/or imprisonment for a term not exceeding ninety (90) days. Each day such violation is committed or permitted to continue shall constitute a new and separate violation, and shall be punishable as such.

### **1.8.2. Civil Penalties**

In lieu of pursuing criminal remedies with respect to any violation of any provision of this Code, Wallsburg Town may elect, in its sole discretion based upon the particular facts and circumstances of each case, to pursue the following civil remedies regarding such violation. The following civil remedies may not be pursued for a violation that occurs in conjunction with a criminal violation as part of a single criminal episode that will be prosecuted in a criminal proceeding, but the following civil remedies may be pursued if no criminal proceedings will occur with respect to the violation.

#### **1.8.2.1. Notice to Comply**

Wallsburg Town shall issue a written notice to comply regarding each such violation to the offending party, which written notice shall identify the offending party, identify the violation, set forth the time period afforded to the offending party to come into compliance with the Code and thereby avoid further enforcement proceedings. The Notice shall further set forth the date, time and location of an administrative hearing to be held regarding the same in the event that the offending party does not comply within the prescribed time period. For a first time offense, the applicable compliance period shall be thirty (30) calendar days from the date of the written notice to comply, unless said violation is a matter of urgent public health, safety and welfare, in such event the compliance period shall be ten (10) calendar days. If the offending party is unable to correct the offense within the allowed compliance period, the party may request an extension. The extension must be in writing and must be signed by all property owners, tenants, parties, with all signatures notarized. The request for extension shall contain the requested extension date, factual evidence as to why the extension is justified, and a commitment to correct the violation within the extension period. The extension may be granted by the Zoning Enforcement Officer at his or her discretion. Written approval or denial of the extension will be given to the offending party. In the event that the Zoning Enforcement Officer does not grant the extension, his or her decision may be appealed to the administrative hearing officer.

In the event that a second notice to comply is issued to the same party with respect to a particular violation (or similar) within any rolling twelve (12) month period, the applicable compliance

period shall be fifteen (15) calendar days from the date of the written notice to comply. In the event that a third notice to comply is issued to the same party with respect to a particular violation within any rolling twelve (12) month period, the applicable compliance period shall be the next calendar day after the date of the written notice to comply.

#### **1.8.2.2. *Amount of Civil Penalty***

If a violation is not completely cured within the time period set forth in the written notice to comply, then such violation of any provision of this Code shall be subject to a civil penalty in the minimum amount of \$25.00 and the maximum amount of \$100.00 per day, depending upon the particular facts and circumstances of each case, which fine shall be imposed beginning on the first calendar day after the applicable compliance period has expired and ending on the date that the violation is completely cured and the offending party is in full compliance with this Code with respect thereto.

#### **1.8.2.3. *Administrative Hearing***

The administrative hearing shall be a public meeting, conducted by an administrative judge appointed by the Town. The offending party shall be given an opportunity to be heard at the administrative hearing, and shall otherwise be afforded due process. The administrative hearing shall be recorded or otherwise documented so that a true and correct transcript may be made of its proceedings. The administrative judge shall make a final administrative determination with respect to the citation, which determination may be that there was no violation, or that a violation occurred and must be abated, and the amount of the appropriate civil penalty within the parameters set forth herein.

#### **1.8.2.4. *Appeal***

Any person adversely affected by any such administrative proceeding and order may petition a district court for review of the determination. In the petition, the petitioner may only allege that the administrative order was arbitrary, capricious or illegal. The petition is barred unless it is filed within thirty (30) calendar days after the administrative order is final. No evidence may be submitted to the district court as part of such petition that is not included in the administrative record of the proceedings unless the evidence was offered to the administrative judge as part of the administrative hearing and the district court determines that the evidence was improperly excluded by the administrative judge.

#### **1.8.2.5. *Collection***

In the event that Wallsburg Town is required to take formal legal action to collect any civil penalty imposed pursuant to this Section, the person responsible therefore shall also be responsible for paying any costs of collection incurred by Wallsburg Town, including, but not limited to, reasonable attorney's fees, which costs of collection may exceed the amount of the civil penalty itself.

#### **1.8.2.6. *Third Party Enforcement***

Each and every continuing violation of any provision of this Code is declared to constitute a nuisance. Private citizens of and/or property owners in Wallsburg Town shall also have the right to commence and pursue formal civil legal proceedings with respect to any ongoing violations affecting their interests, provided that no such legal action shall be filed until after the expiration

of thirty (30) calendar days from the date that a written notice of intent to commence such legal proceedings is actually received by the Town Recorder. The prevailing party in any such private civil legal proceedings shall be entitled to an award of reasonable attorney's fees incurred in pursuing or defending such action."

Section 2: If any provision of this Ordinance, or the application of such provision to any person or circumstance, shall be held invalid or unenforceable for any reason, the remainder of this Ordinance, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

## ***1.9. Licensing***

All departments, officials and public employees of the Town who are vested with the duty or authority to issue permits or licenses, including business licenses shall conform to the provisions of this Code and State Code, and shall issue licenses and permits only in conformance with the provisions of these Codes. Licenses issued in violation of these Codes shall take no effect, and are null and void.

## ***1.10. Zoning Map Adopted***

The Wallsburg Zoning Map is the official zoning map for Wallsburg. Upon amendment to the zoning map, the Mayor shall execute a new map, or re-execute the existing map with the amendments noted in a timely manner.

## ***1.11. Permit Procedure Under This Code***

No building permit(s) shall be issued for any project without final approval. Proposals shall be reviewed according to either the Permitted Use Review under section 1.12 or the Conditional Use Review under section 1.14. Permitted Use application shall be reviewed by the Town Planner for approval. Conditional use applications shall be initially reviewed by the Planning Commission and final approval shall be granted by the Town Board. Subdivisions are subject to infrastructure review under section 1.13 and to the Subdivision Application Procedure and Approval Process set forth in section 6.11 et seq. Subdivisions shall be initially reviewed by the Planning Commission and final approval shall be granted by the Town Board. No planning review shall occur until all applicable planning application fees have been paid, and no final Town Board approval shall be effective until all other fees assessed by this Code or other ordinance, including applicable Town Planner review and engineering fees have been paid. Upon issuance of final approval under either review process, the plans are forwarded to the Building Official for building permit issuance under the provisions of the Uniform Building Code.

## ***1.12. Permitted Use Review Process***

On any proposal to construct a building or other improvement(s) to property which is defined by this Code as a permitted use in the zone in which proposed, the Town Staff shall review the submission to determine whether the proposal:

1. Is a permitted use within the zone for which it is proposed.
2. Complies with the requirements of that zone for height, setback, and lot coverage.
3. Meets the applicable parking requirements.
4. Requires analysis as defined in Chapter 5.
5. Has met the requirements of the infrastructure review process as defined in Section 1.13.
6. Requires a certificate from the technical review committee.

Upon finding that the proposal complies with the applicable zoning requirements, and can be adequately serviced by existing utility systems or lines, the plans shall be reviewed for Building Code compliance and permit issuance. If the submission does not comply with the requirements of the zone, the Town Staff shall notify the owner of the project or his agent stating the requirements of the zone that have not been satisfied.

#### ***1.12.1. Application for Permitted Uses***

The application for a building permit for a permitted use shall contain the following information, in addition to information required by the Uniform Building Code:

1. When a structure is to be built; the footing and foundation details, site plan, and elevations of all sides of the structure, and proof that all fees have been paid, prior to excavation.
2. A Site Plan Showing the lot and the location of the proposed structure. The site plan must be drawn to scale. A certified survey may be required on projects with structures on or near the lot lines, or when the lot lines are difficult to determine from existing plats and monuments.
3. A statement of the name and address of the owner or responsible agent, and a telephone number.
4. The location of the proposed structure by street address or by reference to existing structures so that the location can be identified and assigned a street address.
5. A legal description of the property and proof of ownership.
6. The location and size of adjacent utility lines.
7. A letter or certification from the Army Corps of Engineers, stating that the property (which is not in an approved subdivision) is approved for construction and will not impact any wetlands. The letter must be directed to the Town Clerk and be lot specific.
8. Whenever it comes to the attention of the Planning Commission, Town Board or Town Staff that the subject property is governed by recorded restrictive covenants or other recorded restrictions on the use of the property a letter of approval shall be required. Said letter shall come from the Home Owner's Association or Architectural Committee, or other appointed body or from a licensed attorney stating that it is the opinion of such attorney that the proposed improvements and/or use is not in violation of the applicable recorded restrictive covenants or other restrictions.

### ***1.13. Review and Regulations for Impact on Public Infrastructure and Environmental Factors***

#### ***1.13.1. Infrastructure Review***

Although the Town endeavors to provide infrastructure which will adequately serve buildings and structures allowable within each zone, certain buildings, developments, and structures because of size, type of construction, or lot characteristics present peculiar or excessive demands on Town infrastructure. For these reasons, the developer is responsible to perform an impact analysis in a form and methodology acceptable to the Town to determine the possible impacts on infrastructure.

In order for the Town to determine whether existing infrastructure is adequate, or what additional infrastructure is needed to meet the particular needs of subdivisions with four (4) or more dwelling units, certain types and sizes of buildings and structures which are permitted uses in the zone, the following types and sizes of proposed buildings and structures, and developments are subject to the review process for impact on existing infrastructure:

1. Commercial buildings or structures of Class III, IV or V construction, as defined by the Uniform Building Code, greater than 10,000 square feet.

2. Buildings or structures which are required to have fire sprinkling systems under Wallsburg and or Wasatch County ordinance or resolution.
3. Buildings or structures located on lots with an average slope of more than 15 percent.
4. Industrial or manufacturing facility that deals with products or processing materials that are or could become explosive, flammable or toxic according to the Uniform Fire Code.
5. Subdivision projects with four (4) or more single family dwelling units, or parcels.
6. Development projects that require the extension of any public infrastructure.
7. Developments which, in the opinion of the Town Engineer, may cause damage to, or shorten the useful life of the roadways in the community.
8. Commercial, industrial, or manufacturing uses that involve hauling of goods across Town roads.
9. Commercial, industrial, or manufacturing uses that potentially discharge pollutants onto the ground, into the ground water, or into the air.

#### ***1.13.2. Scope of Review***

For proposed buildings, structures or uses which are permitted or conditional uses in the zone in which the building or structure is proposed, the review shall include the determination of the ability of existing Town infrastructure to provide adequate water for culinary, irrigation and fire flow purposes, the proper handling of storm drainage, slope preservation, mitigation of impact on roads by construction and permanent traffic, and ensuring safe access for users and emergency vehicles in accordance with Town codes, standards, and ordinances as set forth in this ordinance which shall be in addition to all other adopted codes and ordinances. For conditional uses in the zone in which the building, structure or use is proposed, the infrastructure review is a part of the regular conditional use review process specified below and may involve additional regulations.

#### ***1.13.3. Review Procedure***

In addition to the developments listed in Section 1.13.1 herein, buildings and structures which are permitted or conditional uses in the zone proposed and not subject to zoning or use review, are subject to review for impact on existing infrastructure according to the standards described in this Section. The following review procedure shall be followed:

1. Upon making an application for a building permit, the applicant shall supply the Building Official with plans and specifications sufficiently detailed to determine whether the proposed building(s) or structure(s) are subject to further infrastructure review. If, according to the standards found in this section, any proposed building or structure triggers infrastructure impact review, then a building permit shall not be issued and the Building Official shall review the impact of the proposed buildings and structures on existing Town infrastructure to determine what, if any, additional infrastructure is necessary.
2. For any application for a building permit which requires infrastructure impact review, the Town may request from the applicant any additional studies, plans, surveys, specifications and information necessary to review the infrastructure impacts. The following types of information may be requested by the Town Staff to the extent relevant:

##### ***1.13.3.1. To Determine the Impact on Drainage:***

1. A map of the site showing the existing conditions prior to the demolition of any existing structures and any grading, any known geologic or natural hazards.

2. Topography with contours shown at intervals of not more than five feet of the site and as the site adjoins contiguous properties.
3. Vegetation type and location and soil type and load carrying capacity information.
4. One hundred (100) year flood plain and high ground water areas, known spring and seep areas and ditches or canals.
5. All existing roads and proposed road locations and other circulation features, fences, irrigation ditches, and drainage facilities.
6. Location and size of the nearest facilities the site could drain to and where the developer proposes to connect to the existing drains, proposed drainage, drainage works, detention ponds, retaining walls, and erosion control plans.
7. Site plan of the proposed buildings and structures showing building locations and finished grades.
8. Where any drainage from a proposed development will be placed or diverted into an existing irrigation ditch or system, the developer shall provide a copy of the approval and maintenance agreement.

***1.13.3.2. To Determine the Impact on Water, Fire Flows and Sewage:***

1. Location and size of the nearest water main and sanitary sewer lines to the project to which the project can drain or be supplied; and where and how the applicant proposes to connect to the systems.
2. Site plan and floor elevations (including building height) of all proposed buildings and structures showing building locations, construction type and materials.
3. Proposed easements for new utility services or relocated utility services.
4. Fire hydrant locations, building sprinkling plans and water demand for fire flows.
5. Estimated peak culinary water demands, including irrigation.
6. Proof that an applicant has a final order from the State Engineer changing the use of the applicant's water rights to municipal use and changing the point of diversion of the water rights to a Wallsburg Town well, in an amount sufficient to satisfy the requirements of this Code or tender sufficient funds to purchase those rights should the Town have offered to sell water rights to the applicant.
7. Other specific information and scientific data and opinions which, in the opinion of Town Staff is necessary for the meaningful review of the project.

***1.13.3.3. To Determine the Impact on Slope Retention:***

1. Topography existing before construction and proposed finished grades, both on the site and as they relate to adjoining property.
2. Proposed drainage, drainage works, retaining walls, and erosion control plans.
3. Proposed landscaping.

4. Detailed construction drawings and support documentation of any and all structures sufficient to demonstrate compliance with applicable standards, codes and ordinances; or general architectural concept drawings of proposed buildings, showing cuts and fills.
5. Other specific information and scientific data and opinions which, in the opinion of the Town Staff is necessary for the meaningful review of the project.

***1.13.3.4. To Determine the Impact on Streets and Pedestrian Facilities:***

1. A site plan which coordinates pedestrian connections, sidewalks, and bike paths, if shown on the Trails Master Plan or the Streets Master Plan as they are currently adopted.
2. Staging location construction plan.
3. Submit estimated truck traffic trip numbers for construction traffic.
4. If requested by the Town Engineer, the project applicant shall submit reproducible measurable pavement quality testing analyses for each street or roadway which will be utilized by any traffic generated by or relating to the proposed project, including construction traffic. Such analyses will be submitted before permit issuance and building occupancy and shall use a nationally recognized pavement quality testing machine approved by the Town Engineer. Such analyses will be used to determine construction impacts on existing streets at the end of construction so that repairs can be made at the expense of the project proponents to return the pavement to its original quality.

***1.13.4. Department Action***

Within thirty (30) working days from the receipt of the complete application including all requested information for infrastructure impact review, the Town Staff shall review the project and determine whether existing infrastructure is sufficient to adequately serve and determine whether proposed infrastructure under the Capital Improvements Program is sufficient to adequately serve all proposed buildings or structures. If the data is sent to an engineer or other consultant for determination of impacts, the applicant shall pay the costs associated with the professional review.

If the existing infrastructure is adequate to serve the proposed buildings or structures, then a building permit shall be issued in accordance with the Uniform Building Code and Town ordinances. If upon review existing infrastructure is found to be inadequate to serve any proposed buildings or structures or subdivisions, the building permit or subdivision approval shall be withheld. At the option of the Town, the applicant may either:

1. Change the type, scale or location of any proposed buildings or structures in such a manner that existing infrastructure may adequately serve all proposed buildings or structures.
2. Provide at applicant's expense the additional infrastructure necessary to adequately serve all of applicants proposed buildings or structures, to the extent permitted under Utah's Impact Fee Statute, according to designs and specifications approved by the Town.
3. Pay a proportionate share of a Town project that would mitigate the impact as detailed by the Town Board or Town Staff.

Upon submission of plans changing the type, scale or location of any or all proposed buildings or structures in such a manner that existing infrastructure is adequate to serve all proposed buildings or structures; or, upon submitting plans for additional infrastructure and a letter of credit or escrow agreement to the Town for the full cost of the additional infrastructure required as estimated by the Town Engineer, a building permit shall be issued in accordance with Town codes and ordinances.

***1.13.5. Appeal and Review***

If the applicant does not agree with the determination of Town Staff that existing infrastructure is inadequate, or with the requirement for additional infrastructure, the applicant may request Town

Board review. The Town Board is empowered to affirm, reverse or modify the determination of Town Staff. All actions regarding infrastructure impacts and requirements of the Planning Commission or Town Staff are appealable to the Board.

If the Town Staff has not acted on an application or has not indicated to the applicant what existing infrastructure is inadequate within sixty (60) working days after complete information submission, the application shall be forwarded to the Planning Commission for determination of adequacy of existing infrastructure.

**1.13.6. *Transferability***

The infrastructure review and approval is transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site.

**1.13.7. *Expiration***

If a building permit is not obtained within one year from the date of approval, then the infrastructure review and approval process must be repeated prior to issuance of a building permit. If a building permit expires before actual construction of buildings or structures, the infrastructure review and approval process must be repeated prior to issuance of another building permit. If a permit is not taken in six months, the review shall determine whether off-site conditions or demands have changed the ability of the system to meet the demands of the project under review. The permit requirements may be modified to adjust to the new capacity or demand.

**1.13.8. *Standards for Review***

No building permits shall be issued on buildings and structures subject to infrastructure review unless it is found by the Town that there is sufficient infrastructure capacity, according to the standards adopted by the Town. Specific review items include: delivery of adequate water for culinary and fire flow purposes, safe vehicular and pedestrian access for owners, users and emergency vehicles, and proper handling of storm drainage and slope preservation. The standards to be applied for review are:

1. The standards for adequate delivery of water shall be as applicable: the Wasatch County Fire District Flow Standards, the Wallsburg Design Standards, Construction Specifications and Standard Drawings, and the County and/or State Department of Health Drinking Water Regulations as now constituted and as may be amended.
2. The standards for adequate site drainage are the Uniform Building Code Chapter 70, as adopted by ordinance, and the Wallsburg Design Standards, Construction Specifications and Standard Drawings as now constituted or as may be adopted or amended.
3. The standards for access to the building or structure are the Uniform Fire Code adopted by ordinance, the Streets Master Plan or Land Use Map, the Wallsburg Trails Master Plan, and the Wallsburg Design Standards, Construction Specifications and Standard Drawings as now constituted or as may be adopted or amended.
4. The standards for slope retention are the Uniform Building Code Chapter 70, as adopted by ordinance and the Wallsburg Design Standards, Construction Specifications and Standard Drawings as now constituted or as may be amended.

## **1.14. *Conditional Use Review Process***

Although each zone district is an attempt to segregate predominant land uses within identified residential, commercial, agricultural, and similar districts, there will be proposals that are generally compatible in land use with other permitted uses in the zone, and if properly and carefully planned, these uses, which are different from the predominant use, or more intensive than permitted uses in the same zone, may become compatible and appropriate for the zone in question. For example, the location and nature of the proposed use, the character of surrounding development, traffic capacities of adjacent and feeder streets,

environmental factors such as drainage, erosion, and soil stability, all may dictate circumstances where a more intensive use may or may not be appropriate for the zone. The conditional use procedure is intended to provide greater flexibility in land uses while at the same time, preserve neighborhood character and assure compatibility between the conditional uses, the uses on adjoining properties, and the Town at large. Development of conditional uses will be subject to review by the Town Staff, Planning Commission and Town Board, and may be allowed subject to conditions imposed for the purpose of preserving the character of the zone district, and mitigating potential adverse effects to the health, safety and general welfare, or injurious to property or improvements in the vicinity of the conditional use. Where conditions to the use cannot be devised to satisfactorily mitigate adverse effects of the conditional use, the application for a conditional use permit shall be denied. Any land use that is defined in this Code as a conditional use for the zone in which it is proposed shall be reviewed according to the following procedure:

**1.14.1. Pre-Application Conference**

A pre-application conference may be held with the Town Staff or Planning Commission to determine the nature of the use and the general nature of conditions that might be imposed. At the pre-application conference, Town Staff and the applicant shall review the application form, the materials and information needed to complete the form, and the procedures used in reviewing the conditional use.

**1.14.2. The Application**

A conditional use application shall be filed on a form prepared by the Town, and shall be supported and accompanied by the following information (five sets are required):

1. A map of the site showing the existing conditions prior to the demolition of any existing structures and any grading, showing north arrow and scale.
2. A map identifying the subject site in relation to adjoining public streets and the neighborhood in which it is located with north arrow and scale.
3. The boundaries of the site, and any easements of record or known prescriptive easements, existing roads, fences, irrigation ditches, and drainage facilities.
4. Topography with contours shown at intervals of five feet or less, 100 year floodplain and high ground water areas, known spring and seep areas and ditches or canals, and known wetlands.
5. Vegetation type and location; soil type and load carrying capacity information.
6. Site plan of the proposed conditional use showing building locations, proposed road locations and other circulation features and proposed finish grade.
7. Proposed drainage, drainage works, retaining walls, and erosion control plans.
8. Proposed location of all site improvements such as arenas, barns, plazas, tennis courts, pools, and similar improvements.
9. Proposed easements for new utility services or relocated utility services, proposed intersections with existing public streets and lighting plans, if any.
10. Proposed landscaping and signage.
11. Designations of proposed ownership of areas shown on the site plan as common area or dedicated open space.
12. General architectural concept drawings of proposed buildings.
13. Proposed location of a common satellite receiving station or other antennae.

14. When appropriate proposed mitigation measures for any noise, lights, or odors produced by the Conditional Use and proposed hours of operation.
15. When appropriate, the means by which the applicant proposes to use for pollution control from dust, ground water pollution, and other pollutants as may be applicable.
16. Other information necessary for the meaningful review of the project. Additional information may be requested at the pre-application conference based on the nature of the project or the site.

**1.14.3. *Written Statement and other Documentation***

A written statement shall be submitted with the following documentation containing and/or explaining the following information:

1. A preliminary title report showing the title to the property, and listing all encumbrances, covenants, easements, and other matters affecting title, and a legal description of the site.
2. Copies of any covenants or easements which are referred to in the title report.
3. A development schedule indicating phased development, if any, and the estimated completion date for the project.
4. Stamped and addressed envelopes for all property owners within one thousand (1000) feet of the perimeter of the site or lot line with their current mailing addresses as shown from the most recently available county assessment rolls.
5. A general description of the project.
6. Whenever it comes to the attention of the Planning Commission, Town Board or Town Staff that the subject property is governed by recorded restrictive covenants or other recorded restrictions on the use of the property a letter of approval shall be required. Said letter shall come from the Home Owner's Association or Architectural Committee, or other appointed body or from a licensed attorney stating that it is the opinion of such attorney that the proposed improvements and/or use in not in violation of the applicable recorded restrictive covenants or other restrictions.
7. Other information that might be helpful to the Town in reviewing the proposed use.

**1.14.4. *Notice/Posting***

Upon receipt of the complete conditional use application and payment of all applicable fees, the Town Staff shall give notice to the public in accordance with the provisions of Section 1.6 of this Code.

**1.14.5. *Public Comment***

The posted, mailed, and published notice shall advise the public that a conditional use application has been filed on the site, and shall state that a public hearing has been scheduled in accordance with Section 1.6 herein. Interested persons may review the application at the Town office during business hours.

**1.14.6. *Town Action***

**1.14.6.1. *Time Frame***

Once an application is received, the Town Staff will work diligently to review the application as quickly as time and workload allows. It is reasonable to expect that an application will appear before the Planning Commission with a recommendation within 60 days of receipt of the application, if the developer has been diligent in responding to requests for additional information required to process the application. The scale or

complexity of a project or Town Staff workload may necessitate a longer processing period. In such cases, the Town Staff will notify the applicant when an application is filed of the projected time frame.

#### ***1.14.6.2. Town Staff Review***

Town Staff and other appropriate Town officials shall review the project and propose a conditional use permit encompassing the conditions of development and approval. The permit shall incorporate the site plans and architectural plans for the project. The Town Staff may recommend immediate review of the permit on the next scheduled Planning Commission meeting (if notice requirements under section 1.6 can be met) if the Town Staff determines that the conditions may be better prepared and evaluated by the Planning Commission, or if the permit requested is a minor or temporary conditional use.

#### ***1.14.6.3. Planning Commission Review***

Following a public hearing consistent with the requirements in Section 1.6 herein, The Planning Commission shall determine if all points of this Code have been complied with for review and compliance of the conditional use process and may further amend, add or delete conditions recommended by the Town Staff prior to approval. The Planning Commission will recommend the permit for approval with appropriate conditions or denial of the permit to the Town Board for their review at the next regularly scheduled Town Board meeting that can meet notice requirements of Section 1.6.

#### ***1.14.6.4. Town Board Approval***

The Town Board may approve, amend and approve or deny the application for a Conditional Use Permit as proposed to the Planning Commission. After approval by the Town Board, building permits are to be issued by the Town Building Official as provided in the Uniform Building Code and this Code.

#### ***1.14.6.5. Appeal***

If Town Planner and the developer are not able to agree on conditions of approval, the developer may still may go before the Planning Commission for review or may withdraw the application. The review shall appear on the agenda for the next regularly scheduled meeting that has available time and meets notice requirements of section 1.6. Priority shall be given to reviews in preparation of the agendas.

If Town Planner does not act on an application or indicate to the developer what aspects of the plan are not acceptable as proposed within sixty (60) working days after submission, the developer shall have the right of review by the Planning Commission. The developer may, at any time in the review process, request review of the conditions of approval by the Planning Commission.

Appeals may be taken to the Board of Adjustment within thirty (30) calendar days of the final action. Appeals may be taken to the Board of Adjustment consistent with their powers and duties as defined in the Utah Code Ann. section 10-9-701, et seq. pursuant to the procedures set forth in Chapter 4.

#### ***1.14.7. Plat Approval***

When a conditional use requires the recording of a plat, the Final Plat shall be taken to Planning Commission for plat approval only. The scope of review for plat approval is limited as set forth below in Section 1.22. Plat approval may be granted at the same time as the Conditional Use Permit approval.

#### ***1.14.8. Transferability***

A Conditional Use Permit may be transferable with the title to the underlying property so that an approved project may be conveyed by the applicant to others only upon review and approval by the Planning Commission. The permit cannot be transferred off the site on which the approval was granted.

**1.14.9. Expiration**

Unless otherwise specified during the review and approval process, conditional use permits shall expire one year from the date of the Town Board approval of the Conditional Use Permit, unless substantial construction activity has commenced on the project. Substantial construction activity is evidenced by the developer obtaining building permits for the project (or for the first phase of a phased project). Permits may be issued in stages, but the issuance of a footing and foundation permit is not evidence of substantial construction activity unless the permits for the remainder of the structure (or remainder of the phase, in phased projects) are obtained within six months of the issuance of the footings and foundation permit. Demolition permits do not evidence substantial construction work for purposes of extending a conditional use permit. Whether construction has commenced or not, the Town Board may grant an extension for up to one additional year when the applicant is able to demonstrate a legitimate delay in the start of construction, such as inclement weather, delays in financing, or similar factors.

Where the Planning Commission has granted a temporary Conditional Use Permit, that permit's expiration will occur on the date specified in the permit. Renewal of the permit after expiration in any type of conditional use will require a complete re-application as if no permit was granted previously and as procedurally outlined in this Code.

**1.14.10. Standards for Review**

No conditional use permit shall be issued unless the Town finds that the application complies with all requirements of this Code; that the use will be compatible with surrounding structures in use, scale, mass and circulation; that the use is consistent with the General Plan, and that the effects of any differences in use or scale have been mitigated through careful planning. Review for impact on Town infrastructure will be made as previously outlined in the Section 1.13. All Infrastructure improvements must be concurrently constructed and timed carefully with the development and costs associated with them borne by the developer as previously outlined. The Town shall review each of the following items when considering a Conditional Use Permit:

1. Size and location of the site.
2. Traffic considerations including capacity of the existing streets in the area, location and amount of off-street parking, and internal traffic circulation.
3. Utility capacity.
4. Emergency vehicle access and control of delivery and service vehicles, loading and unloading zones, and screening of trash pick-up or waste storage areas.
5. Fencing, screening, and landscaping to separate the use from adjoining uses.
6. Design, architectural detailing, building mass, bulk, orientation, and the location of buildings on the site including orientation to buildings on adjoining lots.
7. Usable and permanent open space considerations.
8. Signage and lighting.
9. Noise, vibration, pollution, odors, steam, or other mechanical factors that might affect people and property off site.
10. Potential for discharge into the air, ground water, surface and subsurface water, or soil.
11. Potential adverse impact on the ability of those who live or own property in the vicinity, including adverse effects to property values and the right to use and enjoy their property.
12. Other technical review matters as may be advised by the Town.

**1.14.11. Sensitive Lands Review**

If a conditional use approval is located within the Sensitive Area Overlay Zone, or designated area, additional requirements and regulations may apply. See the Sensitive Lands Provisions in Chapter 5.

**1.14.12. Technical Review**

The Planning Commission or Town Staff may complete a technical review if necessary. A committee may be set up to review and make suggestions to the Commission regarding concerns or features of a project that may be beyond the expertise of the Planning Commission or Town Staff. Recommendations of that committee may be used as guidelines in the establishment of conditions under the permit as outlined herein.

**1.15. Appeals and Review Process**

Any decision of the Planning Commission or the Town Board regarding conditional uses or administering or interpreting the zoning ordinance consistent with their powers and duties as set forth in Utah Code Ann. section 10-9-701, et seq., may be appealed to the Board of Adjustment. Any person(s) within the Town who may be adversely affected by a decision of the Town Board or Planning Commission regarding an application or decision based on this code, or the owner of the subject property affected shall have standing to appeal a decision of the Planning Commission or Town Board. Appeals of Town actions shall be by letter or petition and contain the name, address, and telephone number of the petitioner, relationship to the project or subject property, and the reasons for requesting review, including specific provisions of this Code, if known, that are violated by the action taken.

**1.15.1. Written Findings of Denial Required**

The Planning Commission or Town Board shall prepare written findings on any application that it denies, amends or approves. These findings shall state the reasons for the action and the provisions of this Code or other Town ordinances, or guidelines, or applicable state or federal laws or regulations, the proposed conditions of action to be imposed and the reasons why those conditions were necessary. These findings shall then be made available to the Board of Adjustment for their use in the appeal process.

**1.15.2. Appeal Petitions Process**

The owner of the property acted on by the Town, or any person who owns property adjacent to property acted on by the Town, or the owner of any other property within the affected area, who can demonstrate just cause and negligible effects of an action taken by the Town, has the right to appeal to the Board of Adjustment any final decision of the Planning Commission or the Town Board. The petition must be filed with the Town Clerk within thirty (30) calendar days of final project action. The petition for the appeal shall state the name, address, and telephone number of the petitioner and agent, if any, the name of the project, and the grounds for the appeal. The Town shall set a date for the appeal, which shall be no more than sixty (60) calendar days from the date the notice of appeal is filed with the Town and meet the notice requirements of Section 1.6. The Town Clerk shall notify the petitioner and the owner of the project of the appeal date. The Town Clerk shall obtain the findings from the Planning Commission, Town Board and all other pertinent information and transmit them to the Board of Adjustment.

**1.15.3. Action on Petitions**

The Board of Adjustment may affirm, reverse, or affirm in part or reverse in part any decision of the Planning Commission or Town Board regarding conditional use or zoning decisions. The Board of Adjustment may remand the matter to the Planning Commission or Town Board with directions for specific areas of review or clarification. Board of Adjustment review of petitions of appeal shall be limited to consideration of only those matters raised by the petition(s), unless the Board, by motion, enlarges the scope of the appeal to accept information on other matters it may legally hear.

**1.15.4. Stay of Approval Pending Review or Appeal**

Upon the filing of a non-owner petition or a petition by the owner for appeal or review by the Board of Adjustment of a Planning Commission or Town Board decision, any action passed on this matter by the Commission or Board will be suspended until the Board of Adjustment has acted on the appeal.

**1.15.5. Appeal from the Board of Adjustment**

The owner of any project, or any person aggrieved by the approval of any project may appeal the final action by the Board of Adjustment affecting the project by filing a civil action in a court of competent jurisdiction. The decision of the Board shall stand, and those affected by the decision may act in reliance on it unless until the court enters an interlocutory or final order staying the effectiveness of the decision.

**1.15.6. Finality of Action**

If no appeal has been filed at the end of thirty (30) days from the date of final action by the Town Board, Planning Commission or Town Planner, the action is final. Termination of Projects

**1.16. Termination of Projects**

It is the policy of the Town to require developers submitting projects to the planning process to move their projects to either approval or denial in a reasonably expeditious manner. The time required in the planning review process will vary with the size and complexity of each proposal, and the establishment of exact time requirements for review is impractical. It is the policy of the Town to formally deny projects submitted to the process which remain inactive for long periods of time due to acts or omissions of the developer.

**1.16.1. Termination of Applications**

When the Town Staff believes that a project that has been formally submitted is not making normal progress towards final approval, the project shall be presented to the Planning Commission for consideration of denial. No project shall be taken to the Planning Commission for denial on the basis of inaction without giving sixty (60) days written notice to the applicant and the responsible agent by certified mail. Such notice shall state the intent of the Town to have the project denied because of inaction and the time, place, and date when the matter will be taken before the Planning Commission.

**1.16.2. Inaction Defined**

A project shall be deemed inactive and subject to denial on the basis of inactivity if, through the act or omission of the applicant and not the Town:

1. More than three months has passed since the last meeting of Town Staff and the applicant.
2. More than three months has passed since a request for additional information was made by Town Staff which request has not been complied with or reasons for non-compliance are not stated or indicated by the applicant.
3. The applicant is more than sixty (60) days in default of the payment of any fee assessed by ordinance, or has not paid the fee under protest.
4. The applicant has stated intent to abandon the project.
5. The project appears to have been abandoned.
6. The application appears to have been filed in bad faith attempting to vest rights prior to a zoning change or code amendment, without actual intent to construct any project.

Delays caused entirely by internal delays of the Town or any Commission or Board shall not be cause for termination.

**1.16.3. Reinstatement**

An applicant may appeal the Planning Commission denial of a project for inactivity to the Town Board, or the action may be called up by the Board. The Town Board, following a public hearing in accordance with Section 1.6 herein, may reinstate subject to payment of full or partial submission fees, reinstate subject to specific ordinance changes, or deny reinstatement. If reinstatement is denied, all interest in the application ends. If the applicant desires to proceed with the project, the applicant must submit a new application and start at the beginning of the process with a new submission and payment of new submission fees, and shall be subject to all ordinances then in effect.

**1.17. Appearance Before Boards, Commissions and Boards**

All persons speaking before any Town agency, department, committee, commission, board or the Town Board on behalf of the owners of any project shall provide reasonable evidence of their agency relationship with the owner. This agency shall be presumed if the spokesman is associated with the architect or engineer whose name appears on the plans, or if the owner is present. The Planning Commission or Town Staff may request an agent to provide a statement signed by the owner indicating the nature of the relationship and the authority of the agent to make decisions or representations concerning the project.

**1.18. Variances and Special Exceptions**

Any variances or special exceptions to this Code shall be granted only by the Board of Adjustment under the provisions of Chapter 4, herein, prior to the issuance of any conditional use, subdivision approval or any other development approval. All action on an application shall be stayed upon learning that a variance or special exception is required until the applicant shall have obtained the variance or special exception or his request is denied by the Board of Adjustment. Appeals from final action of the Board of Adjustment shall be made to the District Court as provided by state law, and not to the Town Board.

**1.19. Relation to Prior Development and Subdivision Ordinance**

The procedures set forth in this Code are intended to supersede any inconsistent procedural provisions in the previous development ordinances. The substantive requirements of the application form and the review process shall remain unchanged, but all final actions under that ordinance are subject to the appeal processes set forth herein, and all applications for subdivision approval are subject to termination as set forth herein.

**1.20. Vesting of Zoning Rights**

Upon payment of the required application fees and submission of a completed application, an applicant shall be entitled to have the filed application reviewed and acted upon pursuant to the terms of this Development Code or development code and zoning map in effect at the time of filing of the application, subject to the exceptions set forth below. The applicant may take advantage of amendments to this Code and zoning map that would permit greater density or more intense use of the land, provided however, that these changes may be deemed a modification of the plan and require the payment of additional planning review fees.

For the purposes of this Code, a complete application includes all documentation required by this Code, other relevant laws and Ordinances of the Town of Wallsburg, relevant state and federal laws, and any other information deemed necessary by the Planning Commission to complete a thorough review of the proposed project and make a well informed decision. At the Concept Plan meeting with the Planning Commission, the Commission will inform the applicant of any information required in order to deem the application complete. Upon receipt of the information required by this Code and any additional information by the Town Clerk, the application will be deemed complete. No application will be deemed complete prior to the Concept Plan meeting with the Planning Commission. An applicant may not appeal the need to provide information required by this Code or any other Town Ordinance, or any state or federal law. However, any applicant may appeal the need to provide any additional information requested by the

Planning Commission to the Town Board on the next available meeting of the Board with adequate time to fully discuss the matter.

Non-zoning related matters, including, but not limited to site development standards, procedural requirements and building code requirements, will not vest until complete building permit applications have been filed and required fees have been paid. Water and sewer connection availability, costs of water and sewer connection and water development fees, and applicable impact fees and other charges will vest only upon payment of the building permit application fees and submission of all materials necessary for the issuance of a building permit.

Vesting of all permits and approvals terminates upon the expiration or termination of the permit or approval.

#### ***1.20.1. Exceptions***

Applicants shall not be entitled to review and approval of applications pursuant to the terms of this Code in effect at the time of application when revisions to this Code are pending at the time of application which would prohibit or further condition the approval sought, or when there exists a compelling reason for applying a new standard or requirement retroactively to the time of application.

### ***1.21. Plat Approval***

On all projects requiring the recording of a plat or record of survey map under applicable state law, the plat shall conform to the following standards before approval will be granted by the Town:

#### ***1.21.1. Owner's Execution***

A subdivision plat must be signed by the owner of the property and all persons claiming an interest in the property within the plat, including those holding a security interest in the property, excluding mechanic liens and judgment liens. All signatures must be legally acknowledged.

#### ***1.21.2. Contents of Plat***

The plat must have signature blocks for the Mayor, Town Engineer, Wasatch County Fire District, Recorder, Attorney, Planning Commission Chair, and County Recorder. The survey data and accuracy of the plat must be certified by a licensed surveyor, and the plat must bear the surveyor's official stamp.

#### ***1.21.3. Submission***

The submission for plat approval must be accompanied by any covenants, declarations, easements, dedications of rights-of-way, or similar documents that are in addition to the contents of the plat. The submission must also be accompanied by a current title report showing the persons having an interest in the property, and verifying the ownership is consistent with the ownership as indicated on the plat. The legal descriptions of the property must also be consistent among the plat, declarations or covenants and title report.

#### ***1.21.4. Recording***

Upon granting of final approval by the Town, the Town Recorder shall release the fully executed plat and the declaration and covenants to the title company designated by the applicant for recording. The Town shall have no obligation to advance recording fees, but may deliver the plat to the County directly rather than through the designated title company. No plat shall be recorded until the Recorder has verified that all fees relative to the project have been paid, including the final engineering bills from the plat approval, if applicable.

#### ***1.21.5. Effect of Approval***

In approving the plat, the Town and its officers and agents are only certifying to substantial compliance with the statute and ordinances regarding the recording of plats and the prior approval of the project as being in compliance with local zoning ordinances. The Town does not make any

representation concerning the accuracy of the information in the plat drawn by the applicant, nor the value of the project.

## ***1.22. Non-Conforming Uses***

### ***1.22.1. Non-Conforming Use Defined***

As used in this Code, a non-conformance use is the use of any building, structure, or land which is prohibited by any zoning, building, or other regulatory ordinances, but which was lawfully existing prior to the effective date of such ordinance. Residential uses and residential structures occupied for residential purposes or vacant at the time of adoption of these provisions shall be exempted from the provisions of this Code. This shall not be construed to allow new residential construction except as provided by the provisions of the respective zones.

### ***1.22.2. Non-Conforming Use of Open Land***

A non-conforming use of land lawfully existing on the effective date of this Code may be continued provided such non-conforming use shall not be expanded or extended into any other portion of a conforming building or open land, and no structures, additions, alterations, or enlargements thereto shall be made thereon, except those required by law. If said non-conforming use is discontinued for a continuous period of more than twenty four (24) months, any future use of such land shall conform to the provisions of the zone in which it is located.

### ***1.22.3. Non-Conforming Buildings***

A non conforming building in any zone may be continued for the period prescribed in this section, provided no additions or enlargements are made thereto and no structural alterations are made therein, except as allowed by a conditional use permit.

Subject to the provisions of this code, a conditional use permit may be granted to allow the expansion of a building which does not conform to height, lot coverage setbacks or area requirements if the following standards are met:

1. That granting the expansion will not adversely impact the attainment of the General Plan.
2. That the expansion will improve the general appearance or safety of the area.
3. That by expanding the building, the character of the neighborhood is not adversely impacted.
4. That the expansion will improve the area by providing adequate parking.
5. That any expansion will be adequately screened or buffered, if needed, so as not to increase impacts to the adjoining properties.

If a non-conforming building is removed, every future use of the land on which the building was located shall conform to the provisions of this Code.

### ***1.22.4. Non-Conforming Use of Conforming Buildings***

The non-conforming use of any conforming building lawfully existing on the effective date of this Chapter may be continued provided such non-conforming use shall not be expanded or extended into any other portion of the conforming building nor shall any structural alterations except those required by law be made, and if such non-conforming use is discontinued for a continuous period of more than twenty-four (24) months, any future use of such building shall conform to the provisions of the zone in which it is located.

A building or structure non-conforming as to use regulations shall not be added to or enlarged in any manner if the expansion involves any structural alteration of the building, except as allowed by a conditional use permit. Subject to the provisions of this code, the use of a building or structure may be expanded if the following standards are met:

1. The expansion of the use will not adversely impact the surrounding properties.
2. The proposed expansion is compatible with surroundings.
3. The site of the proposed expansion conforms to all site development requirements physically possible, given existing site limitations.
4. The proposed expansion shall not create new nonconformity.
5. No expansion of a non-conforming use will be allowed which would extend beyond the original lot or tract of land.

**1.22.5. *Non-Conforming Use of Non Conforming Buildings***

The non-conforming use of a non-conforming building lawfully existing on the effective date of this Code, with Town Board approval, may be continued for the period prescribed in this section, and may be expanded or extended throughout such building provided no structural alterations except those required by law are made therein. If no structural alterations are made or required, a non-conforming use of a non-conforming building may be changed to another use of the same or more restrictive classification. If such non-conforming use is discontinued for a continuous period of more than twenty four (24) months, any future use of the building shall conform to the provisions of this Code, the zone in which it is located and all other laws and ordinances of the Town.

**1.22.6. *Change in Status of Non-Conforming Use***

If a non-conforming use is vacated, it may be succeeded by an equally restrictive or more restrictive non conforming use provided such change is effected within six (6) months. After a change to a more restrictive use is in effect that change shall be evidence that the less restrictive non-conforming use has been abandoned and thereupon loses any vested right as such, and the degree of non-conformity may not subsequently be increased by changing back to a less restrictive use.

**1.22.7. *Reconstruction of Non-Conforming Building Partially Destroyed***

A non conforming building destroyed to the extent of not more than fifty (50) percent of its reasonable replacement value at the time of its destruction by fire, explosion, or other casualty or act of God or public enemy, may be restored and the occupancy or use of such building or part thereof which existed at the time of such partial destruction may be continued subject to all of the provisions of this Code.

**1.22.8. *Non-Conformance Limited to Zone Groups***

Notwithstanding any other provisions of this Code, no uses permitted in any one of the residential or agricultural zones and lawfully existing in any one of the residential or agricultural zones at the time of the effective date of this Code shall be considered non-conforming in the zone in which it is located; no uses permitted in the commercial zone and lawfully existing in the commercial zone at the time of the effective date of this Code shall be considered non-conforming in the zone in which it is located. This Section shall be applicable only to non-conforming uses.

## **1.23. *Savings Clause and Continuation of Prior Ordinances***

**1.23.1. *The Wallsburg Development Code***

The Wallsburg Development Code is hereby amended and re-codified in entirety to read as herein provided by this Development Code.

**1.23.2. *Continuation of Prior Ordinances***

The amendment of all zoning, subdivision and development ordinances previously enacted by Wallsburg shall not:

1. Affect suits pending or rights of the Town existing immediately prior to the effective date of this Code.
2. Impair, void, or affect any grant or conveyance made or right acquired or cause of action as of the effective date of this Code or now existing.

**1.23.3. Continuation of Similar Provisions**

The provisions of this ordinance insofar as they are the same or substantially the same as any prior ordinances shall be construed as a continuation of the prior ordinance.

**1.23.4. Severability**

If any phrase, clause, sentence, paragraph, or section of this Code shall be declared unlawful by any court of competent jurisdiction, it shall be severed and such decision shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

**1.23.5. Effective Date**

This Ordinance shall become effective immediately after passage.

**1.24. Conflicts Within This Code**

Every effort is made by the Town to insure that this Code is readable, understandable, and contains as few defects as possible. If however, any conflicts, defects, inconsistencies or ambiguities are found within different sections or chapters of this Code, the Planning Commission shall follow the section or wording that is more restrictive, stringent or of a higher standard as defined or interpreted by the Planning Commission.

The Planning Commission shall then make every effort to amend this Code to further clarify or repair the defect, conflict, inconsistency or ambiguity.

**1.25. Annexations**

All annexations shall be consistent with the Wallsburg Annexation Policy Plan. Upon receiving a petition for annexation, the town will process the petition in accordance with the relevant provisions of the Utah Code.