
4. ***Chapter 4 DUTIES, ROLES, and RESPONSIBILITIES of TOWN BOARD, PLANNING COMMISSION and BOARD of ADJUSTMENTS, and OTHER COMMITTEES, AS APPOINTED***

This chapter delineates the duties, roles, and responsibilities of the Town Board, Planning Commission, Board of Adjustment and any other committees appointed by the Town Board in relation of to this Development Code. This section may not include all functions performed by each of the governmental bodies listed above, but rather is limited to the scope of administering this Code.

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4.1. *The Town Board or Legislative Body, and Mayor*

The Wallsburg Town Board, hereinafter referred to as Town Board, Board, or Legislative Body shall have the following duties and responsibilities:

1. The Board shall adopt the Wallsburg General Plan and all elements of the Wallsburg General Plan.
2. The Board may initiate amendments to the text and maps of this Code, the General Plan, and all elements of the General Plan following the procedures listed in section 1.5 herein.
3. The Board shall approve, deny, or amend and approve applications for development approval following a recommendation from the Planning Commission after the commission has completed project review outlined in 4.2.7 herein.
4. The Board shall establish a fee schedule for applications for development approval, amendments to the text and/or maps of this Code, and all other approvals, permits, fees, and licenses required by this Code.
5. The Board shall designate and appoint a Zoning Administrator to decide routine and uncontested matters which otherwise would be heard by the Board of Adjustment.
6. The Board shall take other action not delegated to the Planning Commission or Board of Adjustment that may be necessary to implement the provisions of the Wallsburg General Plan and this Code.
7. The Mayor shall serve as the Chair of the Legislative Body and shall have all rights and responsibilities granted by state statute.

4.2. *The Planning Commission*

There is hereby created the Town of Wallsburg Planning Commission consisting of five members appointed by the Board. The Planning Commission, hereinafter referred to as the Planning Commission or Commission shall be organized and have the duties and responsibilities as indicated below.

4.2.1. *Terms and Eligibility of Members*

Each Member of the Planning Commission shall serve a term of three (3) years. Members shall be appointed in December of the year of the expiration of a current member. The terms shall be staggered so that no more than three (3) members shall be appointed at the same time. Terms expire on the last day of the year, but members on the Planning Commission shall continue to serve until their successors are appointed and qualify. The Board shall appoint a new Planning Commission member to fill vacancies that might arise and such appointments shall be to the end of the vacated term. Members of the Planning Commission shall be residents of or own property in Wallsburg, and have resided or owned property within the Town for at least one year prior to being appointed. Members are deemed to have resigned when they move their residences outside the Town limits and sell all property within the Town. All Planning Commission members shall attend a Certified Citizen Planner Seminar presented by the Utah Local Governments Trust within six (6) months after being appointed to the Planning Commission.

4.2.2. *Absence Deemed Resignation or Grounds for Removal*

Any Planning Commission member who is absent, unexcused, from three (3) consecutive regularly scheduled meetings, or a total of four (4) regularly scheduled meetings in a calendar year may be called before the Town Board and asked to resign or be removed for cause by the Board.

4.2.3. *Duties and Responsibilities*

The Wallsburg Planning Commission, hereinafter referred to as Planning Commission, Commission, or Administrative Body, organized in accordance to § 10-9-201 et. seq. of the Utah Code 1996, as amended, shall have the following duties and responsibilities:

1. To prepare a General Plan, any maps required by the plan, and amendments to the General Plan and recommend the plan or amendments to the plan to the Town Board.
2. To prepare this Development Code including zoning and subdivision regulations, any maps required by this Code, and amendments to this Development Code and recommend the code or amendments to the code to the Town Board.

3. Administer provisions of this Development Code as provided in this Code and approved by the Town Board.
4. Recommend approval or denial of subdivision and commercial applications in accordance to this Development Code.
5. Advise the Town Board on matters as the Board directs, and hear or decide any matters that the Board designates, including recommendations for approval or denial of Conditional Use Permits.
6. Exercise any other powers found in the adopted bylaws of the Planning Commission after approval by the Town Board, or powers that are necessary to enable the Commission to perform its function or those designated to the Commission by the Board.
7. To enter upon any land, under consideration for approval or which has been given a Conditional Use Permit, at reasonable times, to make examinations and surveys.

4.2.4. Planning Commission Chair

The Planning Commission shall elect a Chair, who shall serve a term of one year, at the first meeting of the Commission each year. The Chair will direct all commission meetings and may participate in any discussions, be counted for the purpose of forming a quorum, and shall vote according to the Planning Commission bylaws, as adopted and approved by the Town Board.

4.2.5. Town Staff

In order to assist the Planning Commission with its duties, the Commission may request the assistance of the Town Clerk, other employees, committees or agents of the Town. The Town Staff shall assist the Commission with technical matters may attend Commission meetings to assist and advise the Commission when necessary. The Planning Commission may appoint a secretary to keep minutes and post agendas of meetings and hearings. The secretary may be paid for services rendered as agreed upon by the Town Board.

4.2.6. Adoption of Bylaws

The Planning Commission shall adopt bylaws, which establish procedures for meetings and hearings governing presentations of projects and public responses, and public impact or comment on specific projects or general issues. Planning Commission meetings are open to the public and will conform to the Utah Open Meetings Act. Notice will be provided for as per section 1.6 herein, and an annual meeting schedule will be posted and published at least once a year in a newspaper of general circulation.

The bylaws will also address the procedures for the keeping of records and minutes of meetings, which will be made available, upon request, to the public. Additionally, the bylaws will provide guidelines for findings of decisions and recommendations, requirements for a quorum, and voting procedures.

4.2.7. Planning Commission Project Review

The Planning Commission will review each application for compliance with all requirements and regulations of this Code including, but not limited to the following:

4.2.7.1. Town Comprehensive Planning and Zoning Review

The Planning Commission shall have the primary responsibility to initiate long-range planning for the Town, including adequate streets, parks, trails, and recreation facilities, long-range zoning objectives, and periodic review of existing plans to keep them current. The Commission shall review proposed annexations to the Town and recommend action and zoning on land to be annexed. The Commission shall initiate, hear or recommend zone changes and review development standards within zones.

4.2.7.2. Recommendation of Subdivision Approval

The Planning Commission shall review all applications for subdivisions and commercial projects for compliance with the provisions of all applicable regulations and Chapters 5 and 6 of this Code.

Following such review the Commission will forward a recommendation for approval or denial of all applications.

4.2.8. Consent Agenda

Applications for approval of Home Occupations, Signs, and uncontested lot line adjustments may be placed on the consent agenda of the Planning Commission. All items on the consent agenda shall be passed or denied by a single motion at the Commission meeting, unless a Commission believes discussion of a particular item is in the best interest of the Town. When an item is removed from the consent agenda, it shall be acted on at the same meeting at which the removal occurs, unless the developer requests the item to be tabled in order to prepare additional information to respond to concerns.

4.2.9. Review of Town Staff Actions

At any time, an interested party may request that Town Staff actions on a project be reviewed by the Planning Commission. The scope of review by the Planning Commission shall be the same as the scope of review at the Town Staff level on the matters at issue.

4.2.10. Plat Approval

The Commission shall review all plats to be recorded affecting land within the Town limits or annexations to the Town. The scope of review on plat approval is limited to finding substantial compliance with this Development Code, and that all previously imposed conditions of approval, whether imposed by the Town Staff or the Commission, have been satisfied. Upon finding that the plat is in compliance with all applicable federal and state laws and this code, and that conditions of approval have been satisfied, the plat must be signed by the Commission Chair. The Town Engineer, Town Attorney, Town Recorder, Town Board, and Mayor shall all review the plat as required by statute before recording. Plats may be approved on the consent agenda.

4.2.11. Sensitive Lands Review

Any project containing designated sensitive lands, may be subject to additional requirements and regulations as outlined in the Sensitive Lands Regulations contained in Chapter 8 of this Code.

4.2.12. Right to Farm Review

Any project falling within the purview or scope of Section 3.21 of this Code, may be subject to additional requirements and regulations as outlined in the Right to Farm provisions.

4.3. The Board of Adjustment

In accordance with § 10-9-701 et. seq. of the Utah Code 1996, as amended, there is hereby created a Board of Adjustment, which shall consist of three (3) members. There may also be appointed one non-voting alternate member to vote when a regular member is absent or unable to vote due to a conflict of interest. Members shall be appointed by the Mayor with the advice and consent of the Town Board. All members of the Board of Adjustment shall reside in or be property owners within the Town limits, and are deemed to have resigned if they move their residence or sell their property located in the Town limits. The Board of Adjustment may be referred to herein as the Board of Adjustment, the Board, or the quasi-judicial body of the Town of Wallsburg.

4.3.1. Term of Office

Each member of the Board of Adjustment shall serve for a term of five (5) years starting in January and ending in December or until a successor is appointed. Members of the Board so appointed shall be such that the term of one member shall expire each year. Vacancies shall be filled in the same manner as the original appointment for the balance of any unexpired term.

4.3.2. Organization

The Board of Adjustment shall organize and elect a chair, and adopt bylaws.

4.3.3. Meetings

Meetings of the Board of Adjustment shall be determined by the Town in a manner that satisfies the workload of the Board and any appropriate State laws.

4.3.4. Hearings Before the Board of Adjustment

The Board of Adjustments is created to hear four classifications of cases as follows:

4.3.4.1. Variance Applications

Whenever any application or permit has been stayed or denied by the Planning Commission or Town Staff on the basis that approval of the requested permit or application would violate the provisions of this Code relating to set back, building height, side yard, lot size, site requirements, parking requirements, or some similar provision of this Code that has the effect of depriving the applicant of the reasonable use of his property, when others similarly situated are entitled to make such use of their property, the Board may hear the matter, and grant a variance from the strict enforcement of this Code. In all cases of variances before the Board, the applicant shall bear the burden of proof. In order to grant a variance the Board must find all of the following to be true of the application for a variance:

1. Literal enforcement of this Development Code would cause unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Code.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of this Development Code is observed and substantial justice done.
6. In determining whether or not enforcement of this Development Code would cause unreasonable hardship, the Board of Adjustment may not find an unreasonable hardship exists unless the alleged hardship is located on or associated with the property for which a variance is sought and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
7. The Board of Adjustment may not find an unreasonable hardship exists if the alleged hardship is self-imposed or economic.
8. The Board of Adjustment may not grant use variances

In exercising the above-mentioned powers the Board may, in conformity with the provisions of this Code, 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 official or board from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, or determination of any such administrative official or board, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

4.3.4.2. Modifications of Non-Conforming Uses

The Board shall rule on all requests for enlargements, modifications, or changes in the character of any non-conforming use, and determine whether the use is non-conforming, a violation of this Code, or an allowable use within the zone. Non-conforming uses are addressed in Section 1.23 of this Code.

4.3.4.3. Appeals

The Board shall hear and decide appeals where any party with standing as defined in Section 1.16 of this Code alleges that there is an error in the interpretation or application of this code made by the Planning Commission or Town Board consistent with their powers and duties as defined in Utah Code Ann. § 10-9-704 et. seq.

4.3.4.4. Special Exceptions

The Board may hear applications for special exceptions to the terms of this Code which apply to variances, modifications of non-conforming uses, appeals and other matters upon which the Board is required to pass judgment under this Code.

4.3.5. Judicial Review of Board of Adjustment Decisions

The Town or any person aggrieved by any decision of the Board of Adjustment may have and maintain a plenary action for relief therefrom in the appropriate District Court provided petition for such relief is presented to the court within thirty (30) days after the filing of such Board decision with the Town Clerk. The Town Board may not over-ride a decision properly made by the Board of Adjustment.

4.3.6. Action Taken by the Board of Adjustment**1. Approval**

- a) An appeal shall be approved only when the Board finds that all of the forms, procedures, and rules have been completed and fully complied with.
- b) To reverse any order, requirement, decision, or determination made in administering or interpreting the zoning ordinance by any administrative official or agency; or to decide in favor of any appellant who has been denied a permit or approval according to the terms of the zoning ordinance and who has requested a variance; it shall require the concurring vote of the majority of all members of the Board of Adjustment.
- c) When an appeal or request is approved, the Board shall enter into the official minutes the specific reasons for approval, any conditions or limitations of the approval, and the names of those voting for and against.

2. Denial

If the decision of the Board of Adjustment is to deny an appeal or request, the Board shall enter into the official minutes the specific reasons for denial and the names of those voting for and against.

4.4. Planning Town Staff and Building Official**4.4.1. Town Planner**

The Town planner shall, when deemed appropriate, recommend action to the Planning Commission, Board of Adjustment, and Town Board in order to enforce this Code or other land use related ordinances or regulations. The planner, under the supervision of the Mayor shall determine when violations exist, when a development is in substantial compliance with this Code, or when other enforcement actions should be taken. The planner shall also advise the Town and developers as to application, submission, compliance and procedural matters as related to this Code as well as the interpretation of code provisions.

4.4.2. Town Building Official

The Town Building Official shall operate under the supervision of the Mayor and is charged with zoning and other related enforcement duties of this code, as well as issuance, revocation and administration of building and occupancy permits as per this code and Uniform Building Codes in effect. The Building Official is also in charge of building or use inspections, and all building inspectors shall work under the direction of the Building Official. Applications for permitted uses shall be evaluated by the Building Official to determine if approval can be given as a permitted use or if questionable, the use may be conditional or require further study or attention. In the latter case, the application shall be referred to the planner and Planning Commission for further clarification or processing. The Building Official shall advise the Planning Commission and Town Board on all applicable zoning or land use matters.

4.5. Required Permits

4.5.1. Zoning and Building Permits

Construction, alteration, repair, or removal of any building or structure or any part thereof, as provided for or as restricted in this Code and the Uniform Building Code, shall not be commenced except upon clearance by the Town for compliance with this Code and issuance of a building permit.

4.5.2. Occupancy Permit

Land, buildings, or premises in any district shall hereafter be used only for a purpose permitted in such a district and in accordance with the appropriate regulations. A permit of occupancy shall be issued by the Building Official to the effect that the use, building, or premises conform to provisions of this Code and all related ordinances, regulations, and requirements prior to occupancy, for any building erected, enlarged or altered structurally for the occupancy or use of any land. Such a permit is needed whenever use or character of any building or land is to be changed.

4.5.3. Inspection

The Town, or designated officials, shall, upon presentation of evidence of authority, have the right of access to any premises at reasonable times for the purpose of inspecting all buildings and structures during the course of their construction, modification, or repair, and to inspect land uses to determine compliance with the provisions of this Code.

4.5.4. Site Plan Required

Building and project plans submitted to the Town shall include a detailed site plan, drawn to scale, filed with the Town Building Official, as part of any application for a building permit for a permitted use. The site plan shall show where pertinent:

1. Name, address, and telephone number of builder and owner, scale, north arrow, lot lines and their dimensions, adjacent streets, roads, rights-of-way, ditches, easements and land uses.
2. Location of all existing structures on subject property and adjoining properties (completely dimensioned, including utility lines, poles, fences, etc.), and existing utility line locations and sizes.
3. Existing and proposed grading, drainage, and landscaping plans.
4. Location of proposed construction and improvements, including location of all landscape elements, retaining walls, drainage works, and signs.
5. Motor vehicle access, including individual parking stalls, circulation patterns, curb, gutter, and sidewalk and trail location.
6. Necessary explanatory notes and other information which may be requested by the Town Building Official, Town Staff or in this Code.

4.5.5. Time Limit

Unless there is actual construction and a permit issued within a period of 180 days from the date of plan approval by the planner or Building Official, the plan approval for a permitted use shall expire.

4.6. Penalties and Enforcement

The provisions of this Code may be enforced by either civil or criminal actions in courts of appropriate and competent jurisdiction. Suit may be brought by the Town, or by affected property owners in the manner set forth below:

4.6.1. Criminal Citations

The Building Official and other designated Town officials may, when there is probable cause to believe that construction has occurred in violation of this Code, issue a citation and swear out criminal complaints against the appropriate individuals and business entities. Specific approval from the Town Board for such misdemeanor citations is not required.

4.6.2. Civil Actions

The Town, with the authorization of the Town Board, may bring actions for civil and equitable relief, including enjoining specific land uses and affirmative injunctions. The Building Official, planner and other designated Town officials may recommend such actions at any time to the Town Board, provided that no civil proceeding shall be commenced without the specific authorization of the Board.

4.6.3. Third Party Actions

Individuals affected by zoning violations within Wallsburg shall have the right to maintain private actions to enforce this Code without joining the Town as a party.

4.6.4. Violations

Violations of this Code are Class "C" misdemeanors, and are punishable by a fine and/or imprisonment. The officers and directors of a corporation shall be responsible for the acts committed by that corporation. Corporations and individuals shall be responsible for the acts of their agents committed in violation of this Code if they had knowledge of the act committed, and the owner of the property is presumed to have knowledge of the uses of that property and improvements made to it. Each day that a violation occurs shall constitute a separate offense.