

Title 10 Development Code

Chapter 3 ADMINISTRATIVE

10-3-1	Short Title	p.1
10-3-2	Purpose	p.1
10-3-3	Applicability	p.2
10-3-4	Development Review Fees	p.2
10-3-5	Planning and Zoning Commission	p.2
10-3-6	Joint Hearing and Planning Sessions	p.4
10-3-7	Board of Adjustment	p.4
10-3-8	Conflict of Ordinance and Provisions	p.6
10-3-9	Amendments to Code and Zoning Map	p.6
10-3-10	Penalty and Enforcement	p.9
10-3-11	Interpretation	p.10
10-3-12	Severability	p.10
10-3-13	Vested Rights Determination	p.10
10-3-14	Land Use Decisions	p.11
10-3-15	Conditional Use Review	p.12
10-3-16	Variance	p.14
10-3-17	Appeal Procedures	p.17

10-3-1 SHORT TITLE:

This title shall be known as TITLE 10 RANDOLPH TOWN DEVELOPMENT CODE, and is referred to herein as “code/this code/the title”.

10-3-2 PURPOSE:

The Randolph Town General Plan (hereafter referred to as “the General Plan”), was developed to ensure that the rural, agricultural and small town character of the town of Randolph be protected and enhanced. It is the intent of the town to fully exercise all of the powers granted to it by the provision of Utah Code Annotated, for the appropriate regulation of development, changes, and improvements to land use within the town of Randolph through this Code.

Title 10 Development Code

The intention of the town is to assure the managed, proper and sensitive development of land and to protect and enhance the rural, agricultural and small town qualities and lifestyle that exist. This Title is intended to allow development in a manner that encourages the preservation of agricultural lands and natural resources; minimizes municipal expenditures while providing adequate transportation, public safety, and other public services; and promotes a diverse population and secure economy.

10-3-3 APPLICABILITY:

This Title and the Zoning Map shall be applicable to the entirety of the town commonly referred to as Randolph, whose boundary shall follow that which is contained in the General Plan, or the most recent BAS Census Maps, whichever is more recent.

10-3-4 DEVELOPMENT REVIEW FEES:

From time to time the Town Board may establish fees to be paid by applicants to the Town for the purpose of covering specific costs incurred during the review and processing of an application. The amount to be charged by the Town shall be established by resolution of the Town Board.

10-3-5 PLANNING AND ZONING COMMISSION:

Creation: There is hereby created and established a Randolph Planning and Zoning Commission (“Planning Commission”);

The Planning and Zoning Commission shall have the following duties and powers:

- A. To prepare or cause to be prepared a general plan or element thereof to recommend and propose planning and zoning ordinances to the Town Board;
 1. To prepare or cause to be prepared amendments to the General Plan or elements thereof and to recommend the amendments to the Town Board;
 2. To review and make recommendations to the Town Board in regard to amendments to the Zone District Map;
 3. To initiate, hear, review, and make recommendations to the Town Board on applications for amendments to this Title;
 4. To initiate a subpoena to compel documents and testimony required in the normal processing and review of matters pertaining to the Planning Commission;
 5. To hear, review, and recommend approval or disapproval of all applications that pertain to land use and zoning, in accordance with the rules and regulations established by the Town Board and as stated in this Title;

Title 10 Development Code

6. To adopt bylaws, policies, procedures and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Planning Commission; provided however, that the bylaws, policies, procedures and regulations shall be consistent with this Title and shall be approved by the Town Board before taking effect.
- B. Qualification for Membership: Members of the Planning Commission shall be residents of the town of Randolph for one year prior to appointment, and shall remain a resident of the town throughout their term.
- C. Membership; Appointment, Terms, Removal, and Vacancies:
1. The Planning Commission shall compose of five (5) members to be appointed by the Mayor. In making appointment to the Planning Commission, the Mayor shall assure diversity in the membership of the commission to the extent reasonably attainable by considering factors such as geographic diversity, occupational diversity, socioeconomic diversity, cultural influences, and other similar criteria.
 2. All members of the Planning Commission shall serve at the pleasure of the Mayor and may be removed by the Mayor.
 3. All members shall serve as long as they choose to do so, but can be removed by the mayor if needed.
 4. An annual organizational meeting shall be held at the commencement of each calendar year. At this meeting, the members of the Planning Commission shall elect one of its members as Chair and one of its members as Vice Chair. In the absence of the Chair, the Vice Chair shall act as Chair, and have all powers of the Chair.
 5. The Chair, or in the Chair's absence the Vice Chair, shall administer oaths, be in charge of all proceedings before the Planning Commission, and shall take such action as shall be necessary to preserve order and integrity of all proceedings brought before the Planning Commission.
- D. Recording Secretary: The Mayor shall appoint a recording secretary to serve the commission. The secretary shall keep the minutes of all proceedings of the Planning Commission, which shall be a summary of all proceedings brought before the Planning Commission. These minutes shall be attested to by the majority of the members of the Planning Commission through a vote.

In addition, the recording secretary shall maintain all records of the Planning Commission meetings, hearings and proceedings, the correspondence of the Commission, and a mailing list of persons registering to receive notices of meetings, agendas or

Title 10 Development Code

minutes and who have paid annual fee set by the Town Board to solely cover the copying and mailing cost for receiving all notices and agendas.

- E. **Quorum and Necessary Vote:** No meeting of the Planning Commission may be called to order without a quorum consisting of at least three (3) members of the Commission being present. No business shall be transacted without a majority of all members being present. All actions shall require the concurring vote of the majority of the members present, unless stricter voting procedures are established by the Planning Commission. The Chair shall be numbered as a member of the quorum and shall act as a voting member.

- F. **Meetings, Hearings and Procedures:**
 - 1. The Planning Commission shall establish a regular meeting schedule. Special meetings may be requested by the Town Board, the members of the Planning Commission or the Mayor.
 - 2. If a matter is postponed due to lack of quorum, the matter shall be rescheduled to the next regular meeting. The Mayor, or appropriate official, shall notify all members and interested parties of the date of the rescheduled matter.

10-3-6 JOINT HEARINGS AND PLANNING SESSIONS:

At the option of the Town Board, the hearings before the Planning Commission and Town Board may be consolidated into a single hearing, provided that separate votes shall be taken by the Town Board and the Planning Commission. The Planning Commission vote shall be taken first followed by a vote of the Town Board on the recommendation by the Planning Commission.

Notice for any joint hearings shall comply with the notice requirements set forth in this code.

In order to coordinate and a means to address matters between the Town Board and the Planning Commission, the Town Board is authorized to require joint planning meetings. The Mayor shall notify the Town Board of such matters and the Town Board shall then determine whether joint planning sessions are required. Such joint planning sessions shall be for the purpose of discussion and education and are not intended to result in any formal recommendation during the joint planning sessions, although information presented at such sessions may be made part of the record of subsequent proceedings of either the Town Board or the Planning Commission related to the matter in question.

10-3-7 BOARD OF ADJUSTMENT

There is hereby created and established a Randolph Board of Adjustment.

- A. **Appointment, Terms, Membership, Removal, and Vacancies:**
 - 1. The Town Board shall appoint members to the Board of Adjustment.

Title 10 Development Code

2. The Board of Adjustment shall consist of five (5) members. One member of the Board of Adjustment shall be a member of the Randolph Planning Commission.
 3. All members of the Board of Adjustment shall serve at the pleasure of the Town Board and may be removed by a majority vote of the Town Board.
 4. All members shall serve a term of three (3) years, except that in the case of the first Board of Adjustment appointed under the provisions of this section, one (1) shall be appointed for an initial term of one (1) year, two (2) members shall be appointed for an initial term of two (2) years, two (2) members shall be appointed for an initial term of three (3) years. Any vacancy created during the term of a member shall be filled for only the remainder of the unexpired portion of that term.
 5. At the beginning of every year, except that in the case of the first Board of Adjustment shall elect one (1) of its members Chair one (1) of its members Vice Chair. In the absence of the Chair, the Vice Chair shall act as Chair and shall have all powers of the Chair. The Chair shall serve a term of one (1) year except that in the case of the first Board of Adjustment which the term shall end at the conclusion of the calendar year. No member shall serve as Chair for more than two (2) consecutive one (1) year terms.
 6. The Chair, or in the Chair's absence the Vice Chair , shall be in charge of all proceedings brought before the Board of Adjustment, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings brought before the Board of Adjustment.
- B. Recording Secretary: The Mayor shall appoint a recording secretary to serve the Board of Adjustment. The secretary shall keep the minutes of all proceedings of the Board of Adjustment, which minutes shall be a summary of all proceedings before the Board of Adjustment, attested to by the majority of the members of the Board of Adjustment through a vote.

In addition, the recording secretary shall maintain all records of the Board of Adjustment, meetings, hearings and proceedings, the correspondence of the Board, and a mailing list of persons registering to receive notices of meetings, agendas or minutes and who have paid annual fee set by the Town Board to solely cover the copying and mailing cost for receiving all notices and agendas.

- C. Quorum and Necessary Vote: No meeting of the Board of Adjustment may be called to order without a quorum consisting of at least three (3) members of the Board present. No business shall be transacted without a majority of all members being present. All actions shall require the concurring vote of the majority of the members present, unless stricter voting procedures are established by the Board of Adjustment. The Chair shall be numbered as a member of the quorum and shall act as a voting member.

Title 10 Development Code

D. Meetings, Hearings, and Procedures: The Board of Adjustment shall meet whenever an appeal has been made in regard to section II-VII-F1 below. Special meetings may be requested by the Town Board, the members of the Planning Commission or the Mayor.

E. Powers and Duties:

1. The Board of Adjustment shall hear and decide:
 - a. Appeals from final administrative decisions applying the zoning provisions of this title;
 - b. Appeals from lot determination by the Planning Commission;
 - c. Variances from the terms of the zoning provisions established in this Title, said variances to be only granted pursuant to the provisions of this Title regarding variances;
 - d. Appeals from zoning decisions of the Planning Commission for issuance of building permits, except that appeals of decisions from the building official regarding the requirements of the building code and/or international residential code and related building and fire codes go to the appropriate appellate authority in accordance with state law.
2. The Board of Adjustment shall not have any power, jurisdiction or authority to consider any of the following:
 - a. Variances to the standards governing approval of subdivisions, site plans, specially planned area plans, consent agreements, levels of service, or Conditional Use Permits;
 - b. Amendments to the Randolph General Plan and any element or map hereof or any provision or map of this Title, including permissible use of land within any land use category or zoning district; or
 - c. Variances from the use provisions of the zoning regulations.

10-3-8 CONFLICT OF ORDINANCES AND PROVISIONS:

The provisions of this Title are in addition to all other town ordinances and the laws of the state of Utah. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

10-3-9 AMENDMENTS TO CODE AND ZONING MAP

AUTHORITY: The Town Board may from time to time amend, supplement or repeal the provisions and regulations of this title and the Zone District Map of Randolph. No change to the text of this title which affects a portion, or all of the real property regulated by this title and no

Title 10 Development Code

rezoning of a specific parcel of real property by a change in zoning classification resulting in a change to the Zone District Map shall be valid unless approved by the Town Board pursuant to the provisions set forth herein, except that an application for amending an approved specially planned area plan shall be processed pursuant to the provisions of chapter 5 of this title.

INITIATION OF AMENDMENTS: Any amendments to the text of this title or the Zone District Map may be initiated in the following ways:

1. By a motion of the Town Board;
2. Upon the request of the Planning Commission, through a motion by Town Board,
3. By a motion from the Mayor; or
4. Upon request of a property owner within the area to be rezoned or area affected by the change in Code Text.

AMENDMENT PROCEDURES:

A. **Amendment to Text of Code:** Whenever an amendment to the text of this title is initiated, such amendment shall be accomplished in the following manner:

1. A completed application shall be submitted to the City.
2. A copy of the proposed amendment shall be delivered to the Planning Commission for its review and recommendation.
3. The Planning Commission shall hold a public hearing regarding the proposed amendment. Following the public hearing, the Planning Commission shall either recommend approval, approval with modifications, or deny the proposed amendment. The Planning Commission shall then deliver its recommendation to the Town Board.
4. The Town Board shall hold a public hearing on the proposed amendment. Following the public hearing, the Town Board shall approve, approve with modifications, or deny the amendment.

B. **Amendment to Zone District Map (Rezoning):**

1. **Petition by a private landowner:** An application for an amendment to the Zone District Map shall be submitted to the City that has been completed with the following:
 - a. An accurate map, or other sufficient legal descriptions
 - b. Names and addresses of all owners of real property within the area to be rezoned, along with authorized signatures of each owner, or by a duly authorized representative of each owner.
 - c. A description of the proposed nature of the amendment.

Title 10 Development Code

2. **Motion by the Town Board, or Mayor:** When the Town Board or Mayor initiates the action of a zone change, an application shall be prepared that contains the following:
 - a. An accurate map or other sufficient legal descriptions.
 - b. Names and addresses of all owners of real property within the area to be rezoned.
 - c. The proposed nature of the amendment.

C. **Planning Commission Review of an Amendment:** The Planning Commission shall review the proposed amendment and make a recommendation to the Town Board. In order to recommend an approval of the amendment to the Town Board, the following criteria must have been met.

1. The Amendment complies with the goals of the General Plan.
2. The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community.
3. The amendment does not adversely affect the public health, safety, and general welfare.
4. If applicable, the specific development plan is in compliance with all applicable standards and criteria for approval as described in Chapter 5 of this Title.

Prior to making a final recommendation to the Town Board, the Planning Commission shall hold a public hearing to allow for public comment regarding the proposed amendment.

D. **Town Board Review of an Amendment:** The Planning Commission's recommendation shall be delivered to the Town Board, and a public hearing shall be held regarding the proposed amendment. Following the public hearing, the Town Board shall either approve or deny the amendment. In order to approve the following criteria must be met.

1. The Amendment complies with the goals of the General Plan.
2. The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community.
3. The amendment does not adversely affect the public health, safety, and general welfare.
4. The specific development plan is in compliance with all applicable standards and criteria for approval as described in Chapter 5 of this Title.

Title 10 Development Code

- E. **Implementation of Approved Amendments:** All amendments to the text of this title and to the Zone District Map shall be authorized by ordinance, in the manner prescribed by Utah State Law.

10-3-10 PENALTY AND ENFORCEMENT:

- A. **Enforcement-Procedures and Duties:** This ordinance may be enforced by the town by any and all appropriate means authorized by state law and Randolph Town Ordinances including, but not limited to, injunctive relief, fines, withholding of building permits and revocation of development approvals, permits and licenses.

It shall be the Duty of the Mayor and the Town Board to enforce these requirements and to bring to the attention, on the approved complaint form as provided by the town, of the town attorney or designee any violations of this ordinance.

Any person who violates any provision of this ordinance shall be subject to a Class C misdemeanor and such fines and imprisonment that may be applicable pursuant to the provisions of the Utah Code.

- B. **Civil Enforcement:** Appropriate actions and proceedings may be taken by the town in law or in equity to prevent any violation of this ordinance, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, and to prevent illegal occupancy of a building, structure or premises.
- C. **Revocation of Approvals, Permits and Licenses:** An approved building permit may be revoked by the Town Board in accordance with the procedures set forth in this Section and the Building Code if it were determined that the application, decision, permit or license was based on materially inaccurate, misleading, or incomplete information.
- D. **Revocation Procedures:** If the Building Official determines, based on inspection, and submits a formal complaint that there exists a reasonable ground for revocation of a building permit authorized by this ordinance; the Building Official shall set a public hearing before the Town Board. This procedure is in addition to the procedures required in the Building Code.

Notice and Public Hearing: At least fourteen (14) days' notice of a proceeding to reconsider or revoke the building permit or license shall be given to the applicant.

Required Findings: The approving body may revoke the building permit or license upon making one or more of the following findings:

1. That the building application or building permit was issued on the basis of erroneous or misleading information or misrepresentation provided by the applicant.

Title 10 Development Code

2. That the terms or conditions of approval of the permit relating to the establishment or operation of the use, building or structure have been violated or that other laws or regulations of the town applicable to the development have been violated.
- E. **Decision and Notice:** Within five (5) days of the conclusion of the hearing, the Town Board shall render a decision and shall notify the holder of the permit or license of the decision and any other person who has filed a request for such notice.
- F. **Effect:** A decision to revoke a building permit or license shall become final five (5) days after the date notice of the decision was given. After the effective date, all activities shall be deemed in violation of this ordinance.

10-3-11 INTERPRETATION:

The Town Board shall be responsible for the interpreting the provisions of this Title. Any final decision of the Town Board with regard to the interpretation of this Title may be appealed to the Board of Adjustment. The appeal shall be made in writing no later than ten (10) days of the date of the decision. The appeal shall state the basis of the appeal in detail. The appeal shall be heard by the Board of Adjustment at a regularly scheduled meeting as soon thereafter as may be practicable.

10-3-12 SEVERABILITY:

The provisions of this Title are declared to be severable, and if any section, provision or part thereof shall be held unconstitutional or invalid, the remainder of this Title shall continue in full force and effect, it being the legislative intent that this Title would have been adopted even if such unconstitutional matter had not been included therein. It is further declared that, if any provision or part of this Title or the application thereof to any person or circumstances, is held invalid, the remainder of the application thereof to other persons shall not be affected thereby.

10-3-13 VESTED RIGHTS DETERMINATION:

It is the intent of the town to review applications for development that were made prior to the adoption of this Title under the provisions of the Code then in effect, so long as the application was determined to be complete prior to this Title. Applications submitted after the effective date hereof shall be reviewed under the provisions herein. The Town Board shall develop a procedure for considering any vested rights claims that are affected by the approval of this Title and to effectuate public policy favoring the settlement disputes. Said procedure may include the processing of consent agreements for the settlement of disputes pertaining to the vested rights or other legal claims arising from this Title. It is the intent of the town to adjudge vested rights in accordance with state law, and nothing in this section should be read or construed as suggesting a standard different from that provided by such state law.

Title 10 Development Code

10-3-14 LAND USE DECISIONS:

Land use decisions and appeal process actions shall occur as portrayed in the chart labeled **Table: 3-14 Land Use and Appeal Matrix**. Land use applicants shall have fifteen (15) days to appeal any decision to the appropriate Appellate Body. If the applicant desires to continue the appeal beyond the decision of the appellate body, they must file such appeal with the District Court within thirty (30) days from the date on which the Appellate Body rendered its decision.

All required Public Hearing and Notice will follow the appropriate timelines and schedules outlined by state law.

No person may challenge in District Court a land use decision under this Title until they have exhausted all of their administrative remedies provided herein. Any person adversely affected by any final administrative decision made pursuant to this Title must file a petition for review of that final decision with the District Court within thirty (30) days and comply with all other requirements of Utah Code Annotated, Section 17-27-1001. Failure to comply with this section of the state law divests the District Court of subject matter jurisdiction to review decisions of the town.

Title 10 Development Code

Table: 3-14 Land Use and Appeal Matrix

ACTION/DECISION MADE	ADVISORY BODY	LAND USE AUTHORITY	APPELATE BODY	EXTERNAL APPEAL
Administrative Items: Zoning decisions for building permits	None	Planning Commission	Town Board then BOA if needed	District Court within 30 days from decision of Appellate Body
Adoption of or Amendment to General Plan	Planning Commission	Town Board	District Court	30 days from decision by Legislative Body
Adoption of or Amendments to Land Use Ordinance	Planning Commission	Town Board	District Court	30 days from decision by Legislative Body
Annexation Policy Plan	Planning Commission	Town Board	BOA	District Court within 30 days from decision of Appellate Body
Annexation Application	Planning Commission	Town Board	BOA	District Court within 30 days from decision of Appellate Body
Conditional Use Permits	None	Planning Commission	Town Board then BOA if needed	District Court within 30 days from decision of Appellate Body
Interpretations of Title and Zoning Map	Planning Commission	Town Board	BOA	District Court within 30 days from decision of Appellate Body
Lot of Record Determination	None	Planning Commission	Town Board then BOA if needed	District Court within 30 days from decision of Appellate Body
Non-Conforming Uses and Non-Complying Structures	None	Planning Commission	Town Board then BOA if needed	District Court within 30 days from decision of Appellate Body
Platted Street Amendments	Planning Commission	Town Board	BOA	District Court within 30 days from decision of Appellate Body
Subdivision Applications and Plat Amendments	Planning Commission	Town Board	District Court	30 Days from decision by Legislative Body
Subdivision Ordinance Adoption or Amendment	Planning Commission	Town Board	District Court	30 Days from decision by Legislative Body

10-3-15 CONDITIONAL USE REVIEW

It is recognized that there are special uses which, because of their unique character and unusual impact upon the use and enjoyment of neighboring properties, cannot be properly classified in any particular zone district(s) without special review consideration of those impacts upon neighboring lands and upon the public need for a particular use at a particular location.

- A. **Criteria for Approval:** Before an application for a conditional use is approved by the Zoning Commission, it shall conform to the following criteria:

Title 10 Development Code

1. The proposed use shall be appropriate in the particular location, taking into account the nature of the use, its relationship to surrounding land uses and its impact on the natural environment.
2. The proposed use shall be in general compliance with the Development Evaluation Standards in this title.
3. The proposed use will not be in violation of any county, state, and federal laws.
4. The applicant shall present evidence to show approval of the landowner for the particular use, unless the land is owned by the applicant and, in such case, the applicant shall submit proof of ownership.
5. The applicant shall demonstrate that it possesses the requisite skills and experience to ensure that the particular use will be conducted in a safe and orderly manner.
6. The use will not adversely affect, in a significant manner, the public health, safety and welfare.
7. The length and size of the proposed structure must be compatible with the residential uses in the area and must also meet the setback requirements for the zone in which it is located.

B. Review Procedure:

1. The applicant shall submit a completed conditional use application form
2. Pay the appropriate application fee
3. Include any information deemed necessary and reasonable by the Planning Commission to conduct a detailed assessment of the impacts of the proposed use.
4. **Planning Commission Review:** The Planning Commission shall review the application, and make findings according to the criteria listed in Chapter 10-3-15(A).
5. **Public Hearing:** The Planning Commission shall notice/publish and hold a public hearing; the Planning Commission shall recommend approval, approval with conditions, or denial of the proposed Conditional Use to the Town Board for review.
6. **The Town Board Review:** At the next regularly scheduled Town Board meeting, the application shall be reviewed and a decision made; a Conditional Use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use.

Title 10 Development Code

If the reasonably anticipated detrimental effects of a proposed Conditional Use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the Conditional Use may be denied.

The Town Board may also remand the Conditional Use Application back to the Planning Commission for further review and evaluation.

If the Town Board denies the use, the applicant may amend and resubmit the application to the Planning Commission, or appeal the decision to the proper Appeal Authority.

- C. **Expiration of Conditional Use:** Unless there is a substantial action under a Conditional Use permit within a period of one year from the date of approval, said permit shall be considered null and void.

10-3-16 VARIANCE PROCEDURE:

Where the Appeal Authority finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, the Appeal Authority may approve variances to these development standards and subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations. Further, the Appeal Authority shall not approve variances unless it shall make findings based upon the evidence presented that the requirements outlined in this Code have been satisfied.

In approving variances, the Appeal Authority may require any conditions that will, in their judgment, support the objectives of the standards or requirements of these regulations.

Any variances or special exceptions to this code shall be granted only by the Appeal Authority under the provisions herein, prior to the issuance of any conditional use, master planned development, 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, special exception or denial by the Appeal Authority.

This section sets forth procedures for considering and approving a variance to the provisions of this Title. Variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from particular unforeseen applications of the provisions of this Title that create unreasonable hardships.

- A. **Authority.** The Appeal Authority is authorized to hear and decide variances to the provisions of this Title as provided in this section.
- B. **Initiation.** A property owner, or the owner's agent, may request a variance to the provisions of this Title as provided in Subsection 10-3-16 (D) (1) below.

Title 10 Development Code

- C. **Procedure.** An application for a special exemption shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to City Officials, fulfilling all requirements, fees, and requests presented therein.
 2. City Staff will review the application and determine its completeness.
 3. After the application is determined to be complete, the Town shall schedule a Public Hearing before the Appeal Authority.
 4. Notice of the Hearing should follow procedures set forth in this Code.
 2. A staff report evaluating the application shall be prepared by the Community Development Department before the Public Hearing takes place.
 3. The Appeal Authority shall hold a public meeting following the guidelines and procedures set forth in this Code. As well as approve, approve with conditions or deny the application pursuant to the standards set forth in Section (D) below.
 4. Record of all variances shall be maintained by the City Recorder.
- D. **Approval Standards.** In accordance with Sections of the Utah Code, the following standards shall apply to a variance.
1. The Appeal Authority may grant a variance only if:
 - a. Literal enforcement of this Title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Title;
 - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;
 - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;
 - d. The variance will not substantially affect the General Plan
 - e. The variance will not affect the health, safety, and welfare of the general public.
 - f. The spirit of this Title is observed and substantial justice done.
 2. The Appeal Authority may not find an unreasonable hardship unless the alleged hardship:
 - a. is located on or associated with the property for which the variance is sought

Title 10 Development Code

- b. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
3. The Appeal Authority may not find an unreasonable hardship exists if the hardship is self-imposed or economic.
4. The Appeal Authority may find that special circumstances exist only if the special circumstances:
 - a. relate to the hardship complained of; and
 - b. deprive the property of privileges granted to other properties in the same zoning district.
5. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
6. Variances run with the land.
7. The Appeal Authority may not grant a use variance.
8. In granting a variance, the Appeal Authority may impose additional requirements on an applicant that will:
 - a. Mitigate any harmful effects of the variance; or
 - b. Serve the purpose of the standard or requirement that is waived or modified.
9. The Appeal Authority may grant a more restrictive variance than that requested, when the record supports the applicant's right to relief, but not to the extent requested.
- E. Appeal of Decision. Any person adversely affected by a decision of the Appeal Authority regarding a variance may only appeal such decision to the District Court as provided in Utah State Code (10-9a-801).
- F. Effect of Approval. A variance shall not authorize the establishment of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any approvals or permits that may be required by this Code or other applicable provisions of the Randolph City Code.
- G. Amendments. The procedure for amending any variance decision shall be the same as the original procedure set forth in this Section.
- H. Expiration. Variances shall not expire but shall run with the land.
- I.

Title 10 Development Code

10-3-17 APPEAL PROCEDURES:

Any person adversely affected by a decision administering or interpreting a provision of this title may appeal to the Appeal Authority as applicable and designated by this Code.

A. **Procedure:** 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/subject property; and the reasons for the appeal, including specific provisions or regulations of this Code that have purportedly been violated by the action taken by the Town.

1. **Petition or Letter Process:** the Owner of the property acted on by the Town, and any person living or owning property within the Town, has the right to appeal to a final decision of the Land Use Authority or Legislative Body regarding planning and zoning decisions.
 - a. Items needed for Petition:
 - i. Name, Address, telephone number of petitioner and agent
 - ii. Name of project, or short description of situation
 - iii. Reason for appeal
 - b. The City shall set a date for the appeal hearing, which shall be no more than thirty (30) calendar days from the date the notice of appeal is filed, and can meet notice requirements set by the state.
 - c. The Recorder shall notify the petitioner and the owner of the project or affected property of the appeal date.
 - d. The Recorder shall obtain the findings from the Land Use Authority and Legislative body, depending on the situation, and shall make these findings and all other pertinent information available to the Appeal Authority for their use in the appeal process.
2. **Action on Petitions:** The Appeal Authority may affirm, affirm in part, reverse, or reverse in part any decision of the Land Use Authority or Legislative Body regarding planning and zoning decisions.

The Appeal Authority may remand the matter to the Land Use Authority or Legislative Body with directions for specific areas of review or clarification.

Appeal Authority review of petitions of appeal shall be limited to consideration of only those matters raised by the petition(s), unless the Appeal Authority, by motion, enlarges the scope of appeal to accept information on other matters it may legally hear.

3. **Stay of Approval Pending Review or Appeal:** Upon the filing on an appeal to the appeal Authority of a Land Use Authority or Legislative Body decision, any action on the matter by the Land Use Authority or Legislative Body will be suspended until the Appeal Authority acts on the appeal.

Title 10 Development Code

4. **Appeal from the Appeal Authority:** the owner of any project, or any person aggrieved by a decision of the Appeal Authority may appeal the final action by filing a civil action in the District Court as provided by state law. The decision of the Appeal Authority shall stand, and those affected by the decision may act in reliance unless, or until the court enters an interlocutory or final order stating the effectiveness of the decision.

5. **Finality of Action:** If no appeal has been filed at the end of fifteen (15) days from the date of final action by the Legislative Body, Land Use Authority, or Staff, the action is final. The Legislative Body may extend the appeal time period on any particular project as deemed necessary by Legislative motion.