

Chapter 5
LAND USE APPEAL AUTHORITY

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22-5-1 APPEAL AUTHORITY CREATED. There is hereby created a Town of Alta Appeal Authority. The Town Council will serve as the Appeal Authority.

22-5-2 TERMS AND ELIGIBILITY OF MEMBERS. Members of the Town Council shall serve as members of the Appeal Authority during each member's respective Town Council term. So long as a person remains a member of the Town Council, that person will be a member of the Appeal Authority.

22-5-3 AUTHORITY. The Appeal Authority shall serve as the final arbiter of issues involving the interpretation or application of land use ordinances. The Appeal Authority shall hear requests for variances. The Appeal Authority may not entertain an appeal of a matter in which the Appeal Authority, or any member of the Appeal Authority, had first acted as the Land Use Authority.

22-5-4 TIME TO APPEAL. The adversely affected party shall have fifteen, (15), calendar days to appeal to the Appeal Authority a final decision by the Land Use Authority. The Appeal Authority shall set a date for the appeal, which shall occur within a reasonable time period after the adversely affected party files the appeal with the Appeal Authority.

22-5-5 ADVERSELY AFFECTED PARTY'S BURDEN. The adversely affected party shall be required to present to the Appeal Authority every theory of relief that it can raise in District Court. The adversely affected party shall allege that there is error in the order, requirement, decision, or determination made by the Land Use Authority in the administration or interpretation of the land use ordinance. The adversely affected party has the burden of proving that the Land Use Authority erred.

22-5-6 FORM OF APPEALS.

- a. Appeals to the Appeal Authority shall be submitted in person or by certified mail, return receipt requested, to the Town Administration, at the Town offices. Appeals shall be deemed submitted when received by a member of the Town Administration in the Town offices.

b. Appeals must be by letter or petition, and must contain the name, address, and telephone number of the appellant, his or her relationship to the project, or subject Property, and must have a comprehensive statement of all the reasons for the appeal including specific provisions of the law, if known, that are alleged to be violated by the action taken. The appellant shall pay the applicable fee.

c. The Land Use Authority shall direct the Town Administration to prepare detailed written:

i. Findings of fact which explain and support the Land Use Authority's decision; and

ii. Conclusions as to how a contrary decision would violate provisions of the Town's land use ordinance, other Town ordinances, or applicable state or federal laws or regulations.

22-5-7 NOTICE; PUBLIC MEETING. For each appeal before the Appeal Authority, the Appeal Authority shall hold a public meeting to consider the appeal, which shall be noticed as a public meeting pursuant to Utah Code.

22-5-8 APPEAL PROCESS.

a. The Appeal Authority shall set a date for the appeal.

b. The Town shall notify the appellant, the land use applicant (if not the appellant), and the Land Use Authority of the appeal date. The Town Clerk shall obtain the findings, conclusions and other pertinent information from the Town Administration, as required under Section 6(c)(i)-(ii), and the appellant's appeal and shall provide a copy of all documents to each member of the Appeal Authority at least seven, (7), calendar days before the date of the appeal.

c. The Appeal Authority may review and include in its decision any minutes from the Land Use Authority in which the application was discussed or decided upon.

d. The Appeal Authority may affirm, reverse, or affirm in part and reverse in part, any properly appealed decision of the Land Use Authority. The Appeal Authority may remand the matter to the Land Use Authority with directions for clarification or review. The Appeal Authority's scope of review should be limited to consideration of only those matters raised by the petition, unless the Appeal Authority, by motion and majority vote, enlarges the scope of the appeal to accept information on other matters.

22-5-9 QUASI-JUDICIAL ROLE AND STANDARD OF REVIEW. The Appeal Authority shall act in a quasi-judicial manner. The Appeal Authority shall review factual matters de novo and the Appeal Authority shall determine the correctness of a decision of the Land

Use Authority in its interpretation and application of a land use ordinance.

22-5-10 WRITTEN FINDINGS REQUIRED. The decision of the Appeal Authority is final when the Appeal Authority adopts written findings of fact and conclusions of law in the record by a majority vote of the Appeal Authority members present at the meeting.

22-5-11 VARIANCES.

a. Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of the ordinance. The Appeal Authority may grant a variance only if the application for the variance is in compliance with the requirements of Utah Code Ann. § 10-9a-702, as amended and supplemented from time to time.

b. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

c. In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:

i. Mitigate any harmful effects of the variance; or

ii. Serve the purpose of the standard or requirement that is waived or modified.

iii. Variances and any requirements imposed by the Appeal Authority run with the land.

iv. The Appeal Authority's decision to deny a variance, grant a variance, or grant a variance with conditions may be appealed pursuant to Utah Code.