



Community Development

Appeal Requirements

Please refer to Washington County Code Title 10, Chapter 2 and Utah State Code 10-9a-702. All Appeal Applications must meet the applicable requirements of local, state and federal law.

The applicant bears the burden of proving a land use decision was made in error. After reviewing each code section referenced above, please provide a written narrative specifying the nature of the appeal, and any supporting documents such as maps, photos, studies, etc.

10-2-4: APPEAL OF ADMINISTRATIVE LAND USE DECISIONS AND BUILDING DEPARTMENT DECISIONS TO A HEARING OFFICER:

- A. *Legal Authority: The timely and specific appeal to the appeal authority described herein, and the exhaustion of administrative remedies, shall be conditions precedent to judicial review of any decision. The appeal authority or hearing officer is not a public body. Pursuant to Utah Code Ann. 17-27a-701, the county hereby establishes a hearing officer as the appeal authority to hear and decide final administrative decisions under Titles 9 and 10, and regarding:*
 - 1. *Appeals from land use authority decisions applying land use ordinances;*
 - 2. *Requests for variances from the terms of land use ordinances; and*
 - 3. *Appeals from building department or building official decisions under Title 9, or a fee charged in accordance with Utah Code Ann. 17-27a-509.*
- B. *Appeal Deadline: The land use applicant, the county, or any person adversely affected by a final administrative decision may file a written notice of appeal with the county community development department. An adversely affected part is defined pursuant to Utah Code Ann. 17-27a-103. The written notice of appeal shall be filed within ten calendar days of the final administrative decision and accompanied by the required appeal fee. It shall be accompanied by all information specified in Title 10 Chapter 2. An appeal that is not timely will not be considered.*
- C. *Jurisdiction: An appeal may be filed only by the land use applicant, the county, or affected party. An appeal filed by any other party will not be considered. Only parties to the appeal (or their legal representatives) may be heard in an appeal hearing. A hearing officer shall not or decide an appeal of a legislative decision of the Planning Commission or County Commission. The County Commission shall continue to act as the appeal authority where it is expressly required by county ordinance.*

10-2-6: HEARING OFFER APPEAL AND HEARING PROCEDURES:

- A. *General Procedures for all Hearing Officer Appeals:*
 - 1. *Hearings are convened on a case-by-case basis when a written notice of appeal and accompanying required documentation is received by the community development department.*
 - 2. *Documentation required by the appellant:*



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- a. *Notice of appeal.*
- b. *Accompanying written documentation citing all alleged error in any order, requirement, decision, or determination made by the land use authority in its final administrative decision; citations to all controlling provisions of the ordinances and what specific error is claimed; any claims of illegality; and all appellant's theories of relief for the administrative appeal, and for any subsequent appeal to the district court. The appellant shall present to the hearing officer every theory of relieve that it could raise in district court.*
- c. *Appeal fee in accordance with the fee schedule.*
- d. *Other documentation in accordance with the schedule established by the hearing officer.*
3. *Documentation required by the appellee includes a response and other documentation submitted in accordance with a schedule established by the hearing officer.*
4. *A hearing officer with requisite qualifications is assigned by the county attorney's office from the list of approved hearing officers.*
5. *A documentation schedule and hearing date is set by the hearing officer.*
6. *Notice of the hearing date is sent by the community development department to appellant and appellee. Hearing will be conducted using a video conferencing platform where the audio can be recorded and stored as a record for 60 days.*
7. *The proceedings shall be conducted respecting the due process right of each of the participants. Only the parties or their representatives or witnesses shall be heard or present evidence at the appeal hearing. The appeal hearing is not a public meeting or hearing.*
8. *Outside of the hearing, the parties or their representatives shall not discuss substantive matters pertaining to a pending appeal with the hearing officer in an effort to influence the decision on the matter. It is not violation of this section to speak with the hearing officer about general or procedural matters not related to the substance of the appeal, which include but are not limited to the date, time, or place of the hearing*
9. *The hearing is intended to be formal in nature. Formal rules of evidence and civil procedure, including discovery, do not apply. The Uta rules of civil procedure and evidence shall be used as guidelines but shall not be binding. The hearing officer may consider any relevant, nonprivileged oral or documentary evidence presented.*
10. *If the appellant fails to appear at the hearing, without good cause, the failure shall be deemed a withdrawal of the appeal and a waiver of any appeal rights.*
11. *The hearing officer shall make written findings of fact, conclusions of law, and a final decision. The decision may affirm or reverse, in whole or in part, the decision being appealed. The written decision shall be issued within thirty days of the final hearing, and the community development department shall notify the parties of the decision by mail and email.*
12. *If the hearing officer affirms the administrative decision of the county, the original final administrative decision shall remain in effect. If the hearing officer reverses the decision, in whole or in part, the final administrative decision will be adjusted accordingly.*



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13. *The hearing officer shall cause a record of its proceedings to be kept, including a record of all evidence, documents, decisions, and an audio recording of oral arguments and testimony presented at the hearing. The hearing officer shall transmit the record to the community development department to be retained for 60 days. If the hearing officer's decision is appealed to district court, the record will become the entire record transmitted to, and considered by, the district court. No additional information, evidence, or theories of relief shall be presented to the district court.*
 14. *The decision of the hearing officer is effective on the date of the written decision, and it constitutes a final decision under Utah Code Ann. 17-27a-801. Any appeal to the District Court shall be within 30 days of the date of the written decision.*
 15. *Filing a petition with the district court does not stay the decision of the hearing officer absent county agreement of a court order.*
- B. *Land Use Decision Appeals, Additional Procedures:*
1. *Only a final decision in which the land use authority has applied a land use regulation to a particular application, person, or parcel may be appealed to a hearing officer.*
 2. *At all times, the appellant bears the burden of proof that the land use authority's decision was in error.*
 - a. *The administrative decision is presumed correct, unless there is substantial evidence that an error in the application or interpretation of the land use ordinance occurred.*
 - b. *For legal issues, the hearing officer shall apply a correctness standard to its review, and determine if the land use authority correctly applied the plain meaning of the land use regulation.*
 - c. *For factual issues, the hearing officer shall examine the facts on the record and determine if the record on appeal includes substantial evidence for each essential finding of fact.*
 - d. *An administrative decision shall not be disturbed if there is substantial evidence in the record that discloses a reasonable basis for the decision. Inasmuch as land use authorities and administrative officials have specialized knowledge in the field of planning and land use, their decisions should be disturbed only if the hearing officer determines that the decision was not supported by substantial evidence, or the decision was arbitrary, capricious or illegal.*
 - e. *For affirmative defenses, the burden of proof shall be on the person raising the defense.*
 3. *The hearing officer shall:*
 - a. *Determine that correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations; and*
 - b. *Interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.*



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10-2-7: DESIGNATION OF LAND USE AUTHORITY AND APPEAL AUTHORITY:

Type of Land Use Decision	Review Body	Recommending Body	Land Use Authority	Appeal Authority	Final Appeal
General Plan Amendments Legislative Decision	Comm Dev Staff	Planning Comm	County Comm	District Court	
Land Use Ordinance Amendments Legislative Decision	Comm Dev Staff	Planning Comm	County Comm	District Court	
Zone Change - Zoning Map Amendments Legislative Decision	Comm Dev Staff	Planning Comm	County Comm	District Court	
10-2-2 (A) Routine Comm Dev Staff Decisions Administrative Decision	Comm Dev Staff		Comm Dev Staff	Hearing Officer	District Court
10-2-2 (B) Routine Planning Comm Decisions Administrative Decision	Comm Dev Staff	Comm Dev Staff	Planning Comm	Hearing Officer	District Court
10-2-4 Variances Administrative Decision	Comm Dev Staff	Comm Dev Staff	Planning Comm	Hearing Officer	
Interpretations of Zoning Regulations and Maps Administrative Decision	Comm Dev Staff		Comm Dev Staff	Hearing Officer	
Temporary Use Permits Administrative Decision	Comm Dev Staff		Comm Dev Staff	Hearing Officer	
Short Term Rental Application, Licensing & Revocation Administrative Decision	Comm Dev Staff		Comm Dev Staff	Hearing Officer	
Conditional Use Permits Administrative Decision	Comm Dev Staff	Comm Dev Staff	Comm Dev Staff (Minor) Planning Comm (Major)	Hearing Officer Hearing Officer	
Subdivision Ordinance Amendments Legislative Decision	Comm Dev Staff	Planning Comm	County Comm	District Court	
Preliminary Plat Administrative Decision	Comm Dev Staff	Planning Comm	Planning Comm		
Final Plat Administrative Decision	Comm Dev Staff	Planning Comm	Planning Comm and County Comm		
Lot Line Adjustment Administrative Decision	Comm Dev Staff		Comm Dev Staff (if no hearing required) Planning Comm (if hearing required)	Hearing Officer	



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Appeal Application

Please refer to Washington County Code Title 10, Chapter 2 and Utah State Code 10-9a-702. All Appeal Applications must meet the applicable requirements of local, state and federal law.

The applicant seeking an appeal has the responsibility to establish that all of the requirements have been met under State law for the granting of an appeal. The application must be complete, and payment received, prior to acceptance by the Community Development Department. All incomplete applications are deemed rejected. You will be informed within a reasonable time if your application is incomplete. No processing will occur until the application is resubmitted with all the complete information.

Type of appeal:

- Appeal of a Staff Decision
- Appeal of a Building Official Decision
- Appeal of Planning Commission Decision

PLEASE PROVIDE THE FOLLOWING INFORMATION (additional sheets may be attached if necessary):

1. What is the current use of the property? _____

2. What is the action / decision being appealed? _____

3. What is the date of the decision, and who made the decision? _____

4. What is the basis of the appeal? _____

5. Please provide any additional information pertaining to the appeal. _____



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Land Use Application

Application must be complete, and payment received, prior to the Community Development Department processing the application. All incomplete applications are deemed rejected. You will be informed within a reasonable time if your application is incomplete. No processing will occur until the application is resubmitted with all the complete information.

Application Type:

<input type="radio"/> Conditional Use Permit <input type="radio"/> Site Plan <input type="radio"/> Variance <input type="radio"/> Lot Line Adjustment <input type="radio"/> Road Dedication	<input type="radio"/> Zone Change <input type="radio"/> Amended Plat <input type="radio"/> Preliminary Plat <input type="radio"/> Final Plat <input type="radio"/> Other: _____
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Project Name and Description: _____

Reason for Request: _____

Address or Approximate Location: _____

Subdivision Name (if applicable): _____

Parcel(s) ID: _____

Area in Acres: _____ Existing Zone: _____ Existing Use: _____

Proposed Zone (if applicable): _____ Proposed Use: _____

I certify that I am signing this application form as an owner of record to the property included in this application. I certify that the information and exhibits submitted are true and correct to the best of my knowledge. I understand that all materials required by Washington County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

All Landowners are required to sign this application. If additional space is needed, attach additional sheet signed and dated by the applicants.

Signature: _____ Date: _____

Signature: _____ Date: _____