

## **ORDINANCE 85-3**

### **THE TOWN OF CASTLE VALLEY**

**(This Ordinance 85-3 dated February 18<sup>th</sup>, 2015 supersedes any earlier dated Ordinance 85-3)**

#### **AN ORDINANCE PROVIDING FOR LAND USE IN THE TOWN OF CASTLE VALLEY, UTAH.**

Be it ordained by the Town Council of the Town of Castle Valley, Utah:

In order to provide for land use regulation within the Town of Castle Valley this Land Use Ordinance of the Town of Castle Valley is enacted to read as follows:

#### **TABLE OF CONTENTS**

##### **CHAPTER 1 GENERAL PROVISIONS**

- 1.1 GEOGRAPHIC SCOPE, PURPOSE AND INTENT**
- 1.2 DECLARATION**
- 1.3 COMPREHENSIVE PLAN (GENERAL PLAN)**
- 1.4 INTERPRETATION**
- 1.5 SEVERABILITY**
- 1.6 DEFINITIONS**
- 1.7 ILLUSTRATIONS FOR DEFINITIONS**

##### **CHAPTER 2 AMENDMENTS**

- 2.1 AMENDMENTS TO THE ZONE AND MAP**
- 2.2 WRITTEN PETITION REQUIRED**
- 2.3 INTENT WITH RESPECT TO AMENDMENTS**

##### **CHAPTER 3 LAND USE AND APPEAL AUTHORITIES**

- 3.1 DESIGNATION OF LAND USE AUTHORITY**
- 3.2 DESIGNATION OF APPEAL AUTHORITY**
- 3.3 LAND USE AUTHORITY (LUA) AND APPEAL AUTHORITY TABLE**

##### **CHAPTER 4 PERMITTED AND CONDITIONAL USES**

- 4.1 USES PROHIBITED IN ZONES UNLESS EXPRESSLY PERMITTED**
- 4.2 PERMITTED USES FOR RAR-1 ZONE**
- 4.3 PERMITTED USES FOR RG-15 ZONE**
- 4.4 PROHIBITED USES**
- 4.5 CONDITIONAL USES FOR RAR-1 ZONE**
- 4.6 CONDITIONAL USES FOR RG-15 ZONE**
- 4.7 CONDITIONAL USE PERMITS**
- 4.8 SPECIFIC REVIEW CRITERIA FOR CONDITIONAL USE PERMITS FOR HOME AND PREMISES OCCUPATIONS FOR RAR-1 ZONE**
- 4.9 PERMITTED LIVESTOCK REQUIREMENTS AND ANIMAL UNITS FOR RAR-1**
- 4.10 SPECIFIC REVIEW CRITERIA FOR CONDITIONAL USE PERMITS FOR LIVESTOCK EXCEEDING ONE AND ONE HALF (1.5) ANIMAL UNITS PER ACRE FOR RAR-1 ZONE**
- 4.11 TEMPORARY ACCESSORY DWELLINGS FOR MEDICAL PURPOSES (TADs)**
- 4.12 TEMPORARY DWELLING PERMITS ISSUED**
- 4.13 TEMPORARY DWELLING PERMIT RENEWAL**
- 4.14 TEMPORARY DWELLING DECOMMISSIONING**

**CHAPTER 5 BUILDING AND LOT REQUIREMENTS**

- 5.1 MINIMUM LOT SIZE
- 5.2 SETBACK REQUIREMENTS
- 5.3 BUILDING AREA AND HEIGHT LIMITS
- 5.4 EVERY BUILDING TO BE ON PLATTED LOT
- 5.5 ONLY ONE DWELLING PER PLATTED LOT
- 5.6 APPROVAL REQUIRED FOR LOT DIVISION
- 5.7 ALL BUILDINGS MUST BE PERMITTED
- 5.8 ALL PERMANENT BUILDINGS SHALL BE ON APPROVED FOUNDATION
- 5.9 CONVERSION OF EXISTING DWELLING TO AN ACCESSORY BUILDING

**CHAPTER 6 NONCOMPLYING BUILDINGS AND NONCONFORMING USES**

- 6.1 NONCOMPLYING BUILDINGS
- 6.2 NONCOMPLYING BUILDINGS AND NONCONFORMING USES MAY BE CONTINUED
- 6.3 NONCOMPLYING STRUCTURES MAY BE MOVED, ENLARGED OR ALTERED---  
LIMITATIONS:
- 6.4 NONCONFORMING USES MAY BE ENLARGED—LIMITATIONS
- 6.5 DAMAGED BUILDING MAY BE RESTORED
- 6.6 DISCONTINUANCE OR ABANDONMENT AND RESTORATION
- 6.7 CHANGE TO A COMPLYING OR CONFORMING USE
- 6.8 CHANGE TO ANOTHER NONCONFORMING USE PROHIBITED

**CHAPTER 7 VARIANCES AND APPEALS**

- 7.1 VARIANCES
- 7.2 STANDARDS FOR VARIANCES
- 7.3 STANDARDS FOR REVIEW OF APPEALS TO THE PLANNING AND LAND USE COMMISSION
- 7.4 STANDARDS FOR REVIEW OF APPEALS TO THE APPEAL AUTHORITY.
- 7.5 DECISIONS ON APPEAL BY THE APPEAL AUTHORITY
- 7.6 NOTICE TO COUNCIL OF VARIANCE OR APPEAL OF A LAND USE APPLICATION.
- 7.7 NOTICE OF FINAL DECISION FOR VARIANCE OR APPEAL OF A LAND USE APPLICATION.
- 7.8 DISTRICT COURT REVIEW OF APPEAL AUTHORITY DECISION.

**CHAPTER 8 SPECIAL RESTRICTIONS AND REQUIREMENTS**

- 8.1 PLUMBING
- 8.2 REFUSE, DEBRIS AND JUNK
- 8.3 FUEL STORAGE TANKS AND TRASH RECEPTACLES
- 8.4 NOXIOUS WEEDS, FIRE
- 8.5 GASES, FUMES, NOISE OR OTHER
- 8.6 TRASH
- 8.7 WOODSTOVES

**CHAPTER 9 ENFORCEMENT, PENALTIES AND FINES**

- 9.1 ENFORCEMENT
- 9.2 PENALTIES AND FINES

**CHAPTER 10 EFFECTIVE DATE**

- 10.1 DATE THIS ORDINANCE TAKES EFFECT

### **1.1 GEOGRAPHIC SCOPE, PURPOSE AND INTENT**

The Town of Castle Valley is zoned in three zones known as the Rural Agricultural Residential Zone (RAR-1), the Range and Grazing Zone (RG-15), and the Geological Hazard Zone (GH).

The Rural Agricultural Residential Zone (RAR-1) extends to all the currently subdivided lands within the Town of Castle Valley. The area is characterized by land which is utilized for agricultural purposes, interspersed with residential structures, most of which are situated on small acreage of agricultural land and are often associated with limited numbers of domestic livestock.

The Range and Grazing Zone (RG-15) extends to all unplatted lands within the corporate limits of the Town of Castle Valley with the exception of the lands in the GH Zone.

The Geologic Hazard Zone (GH) extends to all unbuildable lands within the corporate limits of the Town of Castle Valley.

It is hereby declared that the purposes of intent of the Town Council in establishing the RAR-1 Rural Agricultural Residential Zone are:

- A. To provide a land use zone where dwellings can be situated in association with a limited number of domestic livestock, under conditions which will tend to provide healthy and safe residences, stabilize gardening and the raising of domestic livestock for family food production and the pleasure of the residing families.
- B. To prevent the overcrowding of land and provide adequate light and air.
- C. To preserve the attractive and wholesome environment of Castle Valley and to support the Town of Castle Valley General Plan.

It is hereby declared that the purposes of intent of the Town Council in establishing the RG Zone are:

- A. To provide a land use zone based on septic system density of at least 15 acres per septic tank-soil absorption system
- B. To preserve the attractive and wholesome environment of Castle Valley and to support the Town of Castle Valley General Plan.

### **1.2 DECLARATION**

In establishing these zones, the boundaries thereof, and other regulations and restrictions applying within the zone, due and careful consideration has been given, among other things, to suitability of the land for particular uses, and to the character of the zone, with a view to conserving the value of buildings and encouraging the most appropriate use of the land. It is also the intent of this land use ordinance to limit the impact of new buildings and unattached structures on the viewsheds, privacy, and open space that are unique to Castle Valley.

### **1.3 COMPREHENSIVE PLAN (GENERAL PLAN)**

The incorporated area of Castle Valley recognizes the need for continued master planning. A comprehensive plan (general plan) is defined as a coordinated plan which has been prepared and adopted for the purpose of guiding land use development, including but not limited to a plan or plans of land use, resources, circulation, transportation, housing and public facilities and grounds. The general plan has been developed and will be reviewed regularly.

#### **1.4 INTERPRETATION**

In interpreting and applying this land use ordinance, the provisions hereof shall be construed to be consistent with the reasonable minimum requirements needed to protect and promote the public health, safety, order, prosperity and general welfare of the present and future inhabitants of this town. It is not intended by the adoption of this land use ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing easement, covenant or other agreement between parties. Provided, however, that where this land use ordinance imposes a greater land use restriction than is required by any other regulation, or other provision of law or by any public easement the provisions of this land use ordinance shall prevail.

#### **1.5 SEVERABILITY**

This land use ordinance and the various parts, sections and clauses are hereby declared to be severable. If any part, section, paragraph, sentence, clause or phrase is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this land use ordinance shall not be affected thereby.

#### **1.6 DEFINITIONS**

For the purpose of this land use ordinance, certain words and phrases require specific definition of meaning. Words and phrases used in the present tense include the future and the singular word or number includes the plural and the singular.

##### **Intent**

It is the intent of this section in setting forth the understanding of said terms and phrases to facilitate understanding of said terms and phrases in the sense intended by the Town Council.

**AGRICULTURE:** The work of producing crops & raising of livestock. (See also definition for livestock)

**BASEMENT:** That portion of a building which is partially or completely below Finished Grade, provided that Finished Grade is no more than three (3) feet above Existing Grade.

**BED & BREAKFAST:** A Bed & Breakfast (B&B) is a single-family dwelling wherein the residing owners (or lessee) of the residence offer: a: to rent a portion of their home for overnight lodging and b: to serve meals to their overnight guests. In this land use ordinance, Bed & Breakfasts are not permitted.

**BUILDING:** Any structure built for the support, shelter or enclosure of persons, animals or property of any kind. This definition does not include buildings owned by the Town or by the Fire District.

**BUILDING, ACCESSORY:** Any building that is not used for human habitation and does not contain a dwelling but is located on the same lot as a dwelling. It may contain one full bathroom or one kitchen, but not both. Only one kitchen is allowed per building per platted lot.

**BUILDING, LINE:** A line designating the minimum distance which buildings must be set back from the street or lot line.

**BUILDING, MUNICIPAL:** A building owned and operated or owned and intended to be operated by a public agency of the United States of America, of the State of Utah or any of its subdivisions, including buildings owned by the Town of Castle Valley and by the Fire District of Castle Valley.

**COMBINED SQUARE FOOTAGE:** In determining the Combined Square Footage of a building, the floor area of each story of a building shall be included, except that a basement shall not be included in the Combined Square Footage if the ceiling area of 50% or more of the entire basement is less than three feet above finished grade. If the ceiling area of more than 50% of the entire basement is three feet or

*(Section 1.6 DEFINITIONS continued)*

more above finished grade, the entire basement area shall be included in calculating the Combined Square Footage. The area of any portion of a building which is directly below a roof shall also be included in calculating the maximum Combined Square Footage, except that the exterior area of a building which is directly below a roof shall only be counted once in calculating the Combined Square Footage for buildings of more than one story. Decks and balconies that are not covered by a roof shall not be counted in calculating the Combined Square Footage. The drawings which are identified as Illustrations A1, A2, and B in Section 1.7 of this land use ordinance are included in the definition of Combined Square Footage.

**COMPREHENSIVE PLAN:** (General Plan) A coordinated plan which has been prepared and adopted for the purpose of guiding development, including but not limited to a plan or plans of land use, resources, circulation, transportation, housing and public facilities and grounds.

**CONDITIONAL USE:** A use which is specifically permitted by the terms of this land use ordinance after the issuance of a written conditional use permit by the designated land use authority. (See also definitions for Home Occupation, Nonpermanent Conditional Use Permit, Permanent Conditional Use Permit, and Premises Occupation.)

**DWELLING:** Any building that is used, designed or intended to be used, for human habitation regardless of the type of building or intended future use; or any building or portion of a building that includes one kitchen and one or more full bathroom(s) as defined in this land use ordinance. Only one kitchen is allowed per building per platted lot.

**DWELLING, SINGLE-FAMILY:** A dwelling designed for or occupied by no more than one (1) family.

**FAMILY:** An individual or group of people, not to exceed four (4) nonrelated persons and maintaining a common household. The term family shall not be construed to mean a group of nonrelated individuals such as a fraternity, club, or institutional group.

**FAMILY DAY CARE CENTER:** A dwelling wherein ordinary care and supervision are provided during customary day-time periods by the resident family to nonrelated person(s). To qualify said dwelling must be approved by the State Division of Social Services and other appropriate State agency and the Town Council.

**FEEDLOTS:** A place of confinement (whether by structures, fences, pens, corrals, or other enclosures) for livestock which allows a large concentration of animals in an area too small for the animals to naturally graze and where the density of animals on the lot exceeds that allowed in this land use ordinance. The primary purpose of such confinement is to provide for the ultimate sale of products from such animals or the animals themselves. In this land use ordinance, Feedlots are not permitted.

**FLOOR AREA:** The floor area of each story of a building is measured from exterior wall to exterior wall and includes all spaces within that area such as, but not limited to, unfinished spaces, stairwells, closets, and other nonhabitable space that have a ceiling height of five (5) feet or more.

**FULL BATHROOM:** An area within a building containing a sink, toilet, and a bathtub and/or shower.

**GARAGE, PRIVATE:** A building or part thereof designed for the parking or temporary storage of automobiles and/or other vehicles of the occupants of the premises.

**GARDENING:** The raising of crops, grains, fruit and plants.

**GRADE, EXISTING:** For sites which have never been disturbed, existing grade is the same as the natural grade which is the elevation of the surface of the ground created through the action of natural forces and has not resulted from man-made cuts, fills, excavation, grading, or similar earth-moving processes. For sites that have existing structures or older disturbances to the land, existing grade shall be

*(Section 1.6 DEFINITIONS continued)*

the ground level established when the existing structure or disturbance was created. Recent earthwork will not necessarily qualify as existing grade and will require a determination from the Building Permit Agent.

**GRADE, FINISHED:** The elevation where the vertical face of the structure intersects the ground after all man-made cuts, fills, excavation, grading, or similar earth-moving processes have been completed. A window well that is entirely within five feet of an exterior wall of the structure or the stair to a Basement that is entirely within eight feet of an exterior wall of the structure shall not be considered in determining the Finished Grade. The drawings which are identified as Illustrations D, E, in Section 1.7 of this land use ordinance are included in the definition of Finished Grade.

**GRAZING:** The act of Livestock eating herbage growing from the ground.

**HEIGHT, BUILDING:** Building Height is the vertical distance between a horizontal line extending from the highest point of any roof, wall, or parapet and the lower of either 1) the lowest point where the vertical face around the perimeter of the building intersects the Existing Grade or 2) the lowest point where the vertical face around the perimeter of the building intersects the Finished Grade. Building Height does not include chimneys or vents. The vertical face of the structure includes, but is not limited to walls, foundations, footings, piers, or columns that support a wall. Piers, columns or posts that support a part of the structure that is not enclosed, such as decks or porches, shall not be considered part of the vertical face of the structure when determining height. For structures for which no part is enclosed, such as carports, height shall be measured from the highest point of the structure to the lowest point in the Finished Grade directly below the structure. The drawings which are identified as Illustrations C1 and C2 in Section 1.7 of this land use ordinance are included in the definition of Building Height.

**JUNKYARD:** The use of any lot, portion of a lot, or tract of land for the storage, keeping, dismantling, demolition or abandonment of automobiles or other vehicles, or machinery or parts thereof; provided, that this definition shall not be deemed to include such uses which are permitted in section 8.2 of this Land Use Ordinance and clearly incidental to any residential or agricultural use, or permitted home or premises occupation.

**KENNEL:** Any land or building wherein any person engages in the commercial or non-profit business of boarding, breeding, buying, letting for hire, training for a fee, selling or keeping three (3) or more dogs or cats of the age of four (4) months old or older. In this land use ordinance, Kennels are not permitted.

**KITCHEN:** An area within a building used, or designed or intended to be used, for the preparation of food and contains a sink, refrigerator and stove. Only one kitchen is allowed per building per platted lot.

**LAND USE AUTHORITY:** The person or board designated in this land use ordinance to review and act upon a specific land use application. More than one land use authority may be designated by the Town, each with jurisdiction over the specific categories of land use applications designated for its review and action.

**LAND USE PLAN:** A plan adopted and maintained by the Town Council which shows how the land should be used; an element of the General Plan.

**LIVESTOCK:** Animals such as cattle, sheep, swine, horses, mules, buffalo, llamas, goats, geese, emus, ostriches, swans, peafowl, turkeys, chickens, ducks and other fowl. This definition does not include domestic pets such as dogs or cats. (See also, definition for Agriculture, Feedlot, and Kennel.)

**LOT:** A legally platted parcel of land of five (5) acres or more including easements.

**MANUFACTURED/MOBILE HOMES:** A structure constructed according to the HUD/FHA mobile

*(Section 1.6 DEFINITIONS continued)*

home construction and safety standards, manufactured after June 16, 1976, transportable in one or more sections, which in the traveling mode, is eight (8) feet or more in width or is forty (40) or more feet in length, and when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and erected and installed according to HUD approved guidelines. Roof load requires twenty-five (25) psf. roof load and wind load of fifteen (15) psf. All manufactured/mobile homes shall possess necessary building permits as required by the Town of Castle Valley and Grand County.

**NONCOMPLYING BUILDING:** A building, structure or portion thereof that legally existed before its current land use designation; and because of one or more subsequent changes to this or other land use ordinances, does not conform to the setback, height restrictions, or other regulations excluding those regulations which govern the use of land. A noncomplying building or structure must have been maintained continuously since the time this or another land use ordinance was enacted or changed to make the building or structure noncomplying and not abandoned for a period of one year or more.

**NONCONFORMING LOT OF RECORD:** A parcel of land which does not conform to the area, frontage and/or width requirements for a zoning lot, but which was shown on the records of the county recorder as a legally platted independent lot, on original subdivision plat, prior to the effective date of this or other land use ordinances.

**NONCONFORMING USE:** A use of land that legally existed before its current land use designation, but because of one or more subsequent changes to this or other land use ordinances, does not conform to the regulations that now govern the use of the land. A nonconforming use must have been maintained continuously since the time this or other land use ordinances were enacted or changed to make the land use nonconforming and not abandoned for a period of one year or more.

**NONPERMANENT CONDITIONAL USE PERMIT:** A conditional use permit for a nonpermanent use of land as listed in section 4.5. Nonpermanent conditional use permits do not run with the land and must be renewed each year. (See also definitions for Conditional Use, Home Occupation, Permanent Conditional Use Permit, and Premises Occupation.)

**NONROUTINE APPLICATION:** An application that is not routine.

**NURSERY, BOTANICAL:** A place where trees and other plants are raised for transplanting or for sale.

**NURSERY, DAY-CARE:** A home or building in which children are tended or kept for compensation. A nursery, day-care does not provide overnight accommodations for such children as does a foster home or orphanage.

**PERMANENT CONDITIONAL USE PERMIT:** A conditional use permit for a permanent building or structure as listed in section 4.5. Permanent conditional use permits run with the land and transfer to the new owners automatically and are not required to be renewed each year. (See also definitions for Conditional Use, Home Occupation, Nonpermanent Conditional Use Permit, and Premises Occupation.)

**PERSON:** An individual, corporation, partnership, association, trustee or other legal entity.

**PREMISES:** A zoning lot together with buildings and structures located thereon.

**PREMISES OCCUPATION:** An occupation for compensation conducted on a lot and/or within one accessory building in addition to a dwelling situated on the same lot. (See also definitions for Conditional Use, Home Occupation, Nonpermanent Conditional Use Permit, and Permanent Conditional Use Permit.)

**PUBLIC PARKS AND PLAYGROUNDS:** Shall mean a tract of land which is owned by the public and which has been partially or totally improved, developed or designated for recreational purposes.

**ROOF:** Anything that covers a building or structure.

*(Section 1.6 DEFINITIONS continued)*

**ROUTINE APPLICATION:** An application for land use approval for a building permit, temporary building permit, certificate of land use compliance, decommissioning contract, certificate of occupancy, conditional use permit for a home occupation, or conditional use permit for a premises occupation which is deemed by the designated land use authority as involving uses that are clearly permitted by this land use ordinance or which, according to the applicant's responses on a form designed to identify routine applications, will not require the imposition of any conditions other than those found in this land use ordinance to ensure that the impact of the proposed use does not exceed the impact of permitted uses in the zone in which the land use is to be located.

**SETBACK:** The shortest distance between the outside surface of the foundation, wall or main frame of a building, septic system or well, to the legally platted street easement line, side property line or back property line.

**SHORT-TERM RENTAL:** Rental of property or improvements on property for a period of less than twenty-five (25) days to a person or persons not residing in the Town of Castle Valley. The short-term rental of property as defined herein is a commercial use of property. In this land use ordinance, Short-Term Rentals are not permitted.

**SIGN:** A publicly displayed board bearing advertising or information.

**STORY:** That portion of a building included between the surface of a floor and the ceiling next above it, that is five (5) feet or more in height.

**TEMPORARY ACCESSORY DWELLING FOR MEDICAL PURPOSES (TAD):** A recreational vehicle, park trailer, or HUD approved single-wide manufactured home to be used exclusively for immediate family members who are certified infirm, or for caregivers who are assisting the occupants of the main dwelling who are certified as infirm.

**TEMPORARY DWELLING:** A manufactured mobile unit (other than a mobile home) designed and permitted by its manufacture as a temporary dwelling for travel, recreational, and vacation use, including recreational vehicles such as: travel trailers, park trailers, camp trailers, motor homes, truck campers and vans. A travel trailer shall not require special highway movement permits when towed on public highways, and shall not exceed eight (8) feet in width of forty (40) feet in length. A park trailer shall not exceed an area of 400 square feet. The unit must be self-contained or attached to a septic system approved by the State Sanitarian. A temporary dwelling is considered a dwelling. Only one dwelling is permitted on a lot in the Town (except that an unused recreational vehicle may be stored while not in use).

**TOWN COUNCIL:** The Castle Valley Town Council, which includes the Mayor and Council members.

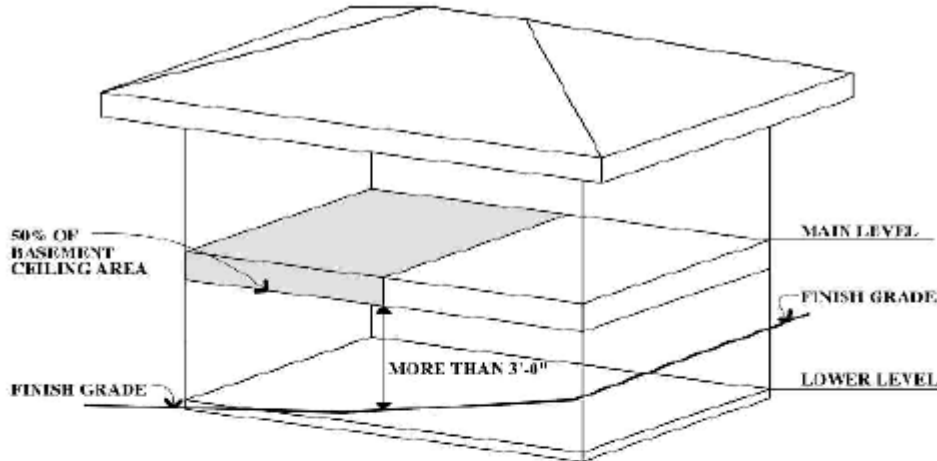
**UNNECESSARY HARDSHIP:** A general restriction placed upon a lot with respect to setback or area where, by reason of exceptional narrowness, shallowness, shape, land condition or topography of such lot, a literal enforcement of the general restrictions would result in an unfairness to the owner compared to the owners of other lots in the same zone and/or which literal enforcement would be unnecessary in order to achieve the intent of the zone. The hardship shall not have been created by an act of any property owner.

**VARIANCE:** A waiver or modification of a setback, an area requirement or height requirement of the this or other land use ordinances, as distinguished from a conditional use, to be determined by the Appeal Authority.



### 1.7 ILLUSTRATIONS FOR DEFINITIONS

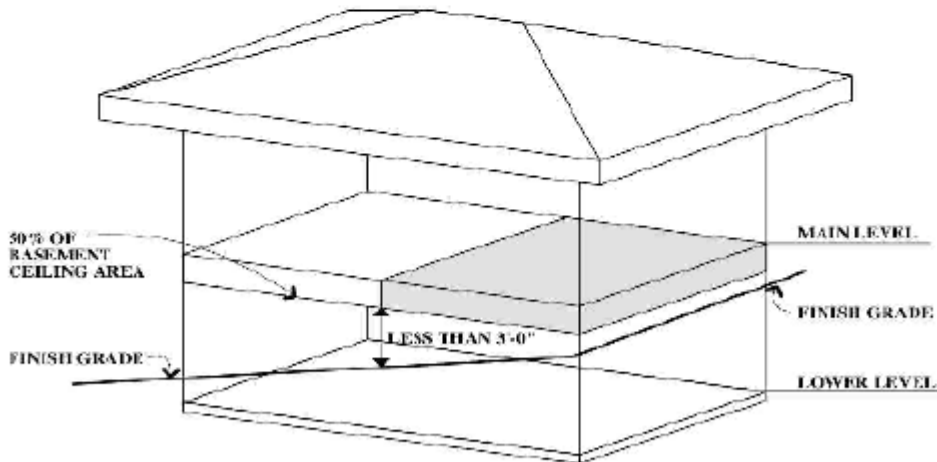
#### Illustrations A1 and A2 – Combined Square Footage – Basement Areas



THIS EXAMPLE SHOWS A BASEMENT THAT SHOULD BE INCLUDED IN THE COMBINED SQ. FT. CALCULATION

#### **ILLUSTRATION A1 (COMBINED SQ. FT. BASEMENT AREA)**

SCALE: NONE

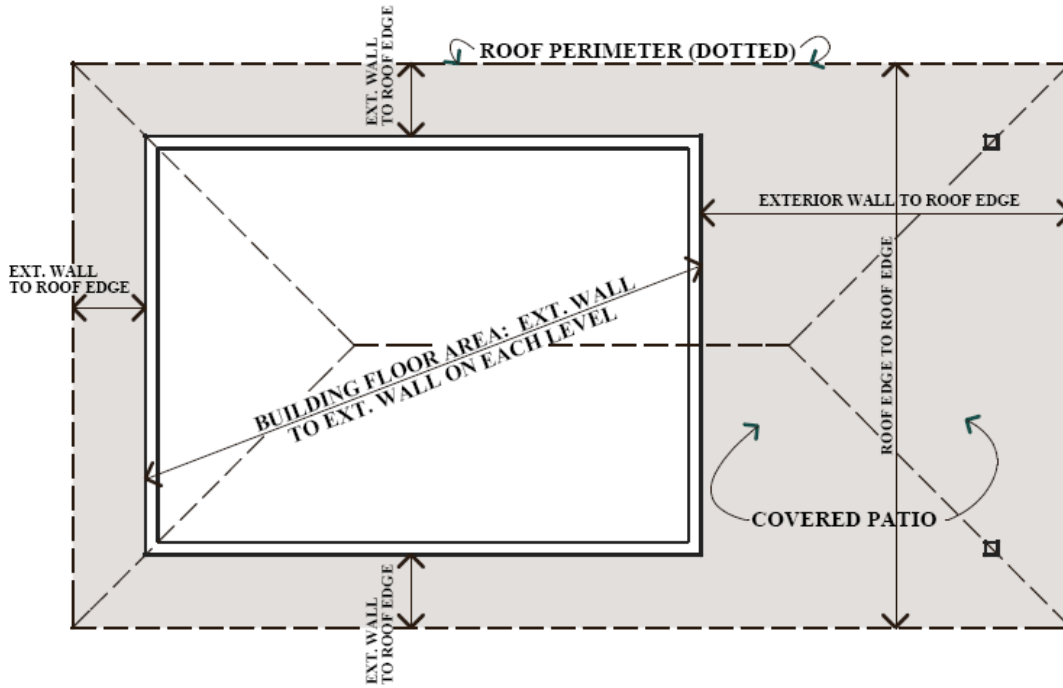


THIS EXAMPLE SHOWS A BASEMENT THAT SHOULD NOT BE INCLUDED IN THE COMBINED SQ. FT. CALCULATION

#### **ILLUSTRATION A2 (COMBINED SQ. FT. BASEMENT AREA)**

SCALE: NONE

Illustration B – Combined Square Footage – Roof Extension

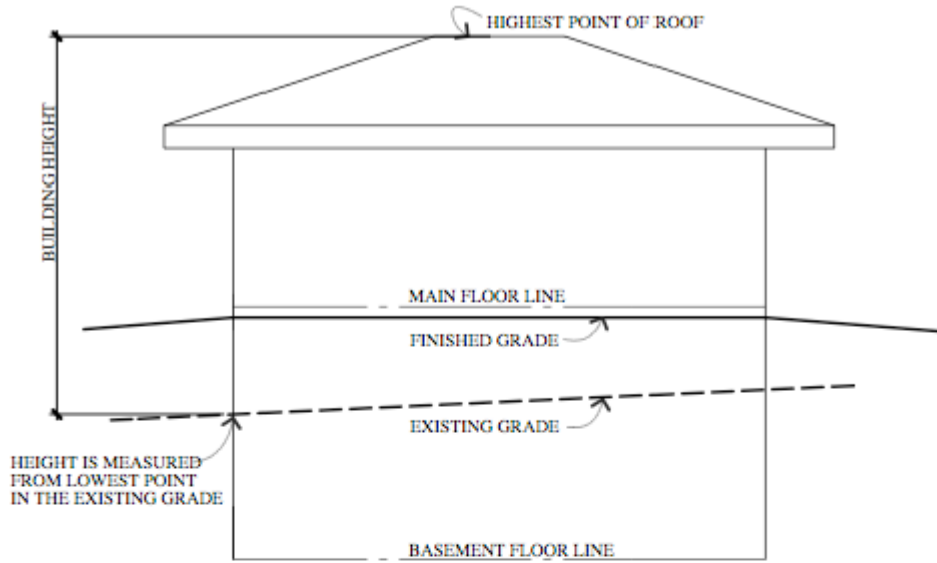


**ILLUSTRATION B  
(COMBINED SQ. FT. ROOF EXTENSION)**

SCALE:

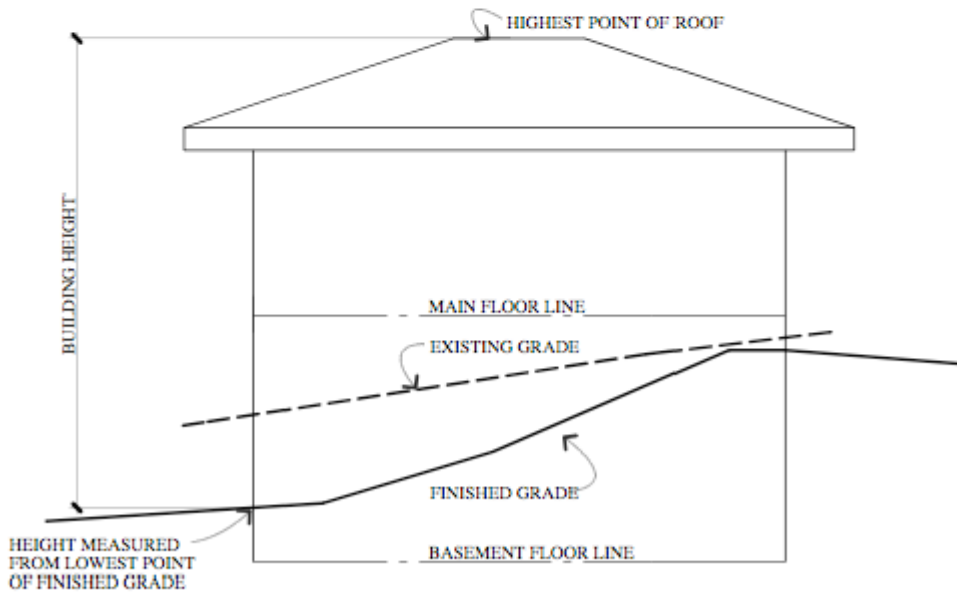
NONE

Illustrations C1 and C2 – Building Height/Finished Grade – Finished and Existing Grades



**ILLUSTRATION C1  
(BUILDING HEIGHT/FINISHED GRADE-  
FINISHED AND EXISTING GRADES)**

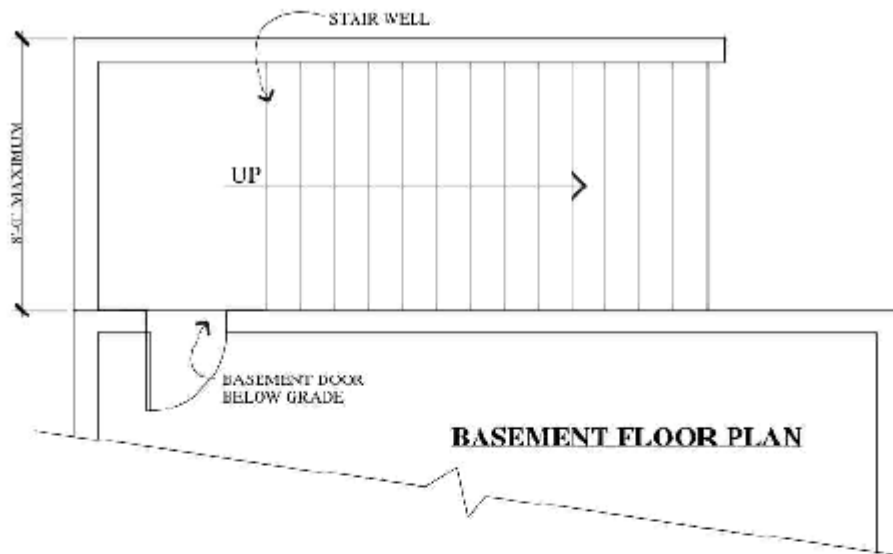
SCALE: NONE



**ILLUSTRATION C2  
(BUILDING HEIGHT/FINISHED GRADE-  
FINISHED AND EXISTING GRADES)**

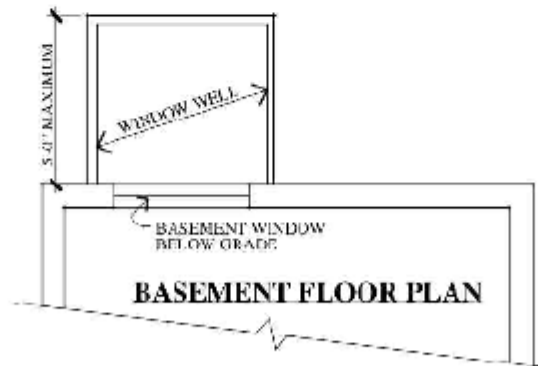
SCALE: NONE

Illustrations D and E – Building Height/Finished Grade – Exterior Basement Stair and Window Well



**ILLUSTRATION D  
(BUILDING HEIGHT/FINISH  
GRADE-EXTERIOR BASEMENT STAIR)**

SCALE: NONE



**ILLUSTRATION E  
(BUILDING HEIGHT/FINISH  
GRADE-WINDOW WELLS)**

SCALE: NONE

## **CHAPTER 2 AMENDMENTS**

### **2.1 AMENDMENTS TO THE ZONE AND MAP**

This land use ordinance, including any future map, may be amended. All proposed amendments shall be submitted to the Planning and Land Use Commission and will be considered within 30 days. All proposed rezoning shall follow the Master Development Plan/Rezoning Ordinance of the Town of Castle Valley.

### **2.2 WRITTEN PETITION REQUIRED**

Any person seeking an amendment of this land use ordinance or map shall submit to the Planning and Land Use Commission a written petition designating the change desired and the reason therefore and shall pay a filing fee of \$25.00 to the Town Clerk. Upon receipt of the petition the Planning and Land Use Commission shall consider the request and make its recommendation to the Town Council. The Planning and Land Use Commission shall schedule a public hearing. At the public hearing the interested parties and citizens shall have an opportunity to be heard. The public hearing may be continued from time to time at the discretion of the Planning and Land Use Commission. Notice of the time and place of such hearing shall be posted at three (3) places within the town and published in the newspaper of general circulation within the town as may be required by the law of the State of Utah. The Town Council and the Planning and Land Use Commission may also initiate amendments to this land use ordinance.

### **2.3 INTENT WITH RESPECT TO AMENDMENTS**

It is hereby declared to be public policy that this land use ordinance shall not be amended unless it can be shown that changed or changing conditions make the proposed amendment necessary to promote the purposes of this land use ordinance and reflect the General Plan of the Town of Castle Valley.

## **CHAPTER 3 LAND USE AND APPEAL AUTHORITY**

### **3.1 DESIGNATION OF LAND USE AUTHORITY**

#### **3.1.1 Building Permit Agent**

The Building Permit Agent shall act as the land use authority to review and determine whether an application for land use approval or a conditional use permit is routine or non-routine and act on routine requests for land use approval for building permits, routine requests for conditional use permits, routine requests for temporary dwelling permits, routine requests for certificates of land use compliance, routine requests for a decommissioning contract, and routine requests for certificates of occupancy.

#### **3.1.2 Planning and Land Use Commission**

The Planning and Land Use Commission shall review applications and make recommendations to the Town Council prior to the Town Council taking action as the land use authority with regard to all applications where the Town Council is the land use authority including applications for nonroutine conditional use permits and subdivisions and the annual review of conditional use permits.

The Planning and Land Use Commission shall act as the land use authority to act upon nonroutine requests for land use approval for building permits, nonroutine requests for temporary dwelling permits, nonroutine requests for certificates of land use compliance, non-routine request for decommissioning contracts, and nonroutine requests for certificates of occupancy.

The Planning and Land Use Commission shall act as the appeal authority from decisions by the Building Permit Agent determining that an application for land use approval for a building permit, a conditional use permit, a temporary dwelling permit, a certificate of land use compliance, a decommissioning contract, or a certificate of occupancy is routine if an appeal from the determination of the Building Permit Agent is filed within 15 calendar days after the date that a determination is officially made by the Building Permit Agent.

If, upon appeal, the Planning and Land Use Commission determines that an application for land use approval for a building permit, conditional use permit, a temporary dwelling permit, a certificate of land use compliance, a decommissioning contract, or a certificate of occupancy is routine, it may issue land use approval, the conditional use permit, the temporary dwelling permit, the decommissioning contract, or the certificates.

**3.1.3 Town Council**

The Town Council shall act as the land use authority to review and act upon applications related to subdivision approval, non-routine conditional use permits, review, renewal and revocation of both routine and non-routine conditional use permits, Temporary Accessory Dwellings For Medical Purposes, non-complying buildings, non-conforming uses, the interpretation of the provisions of this or other land use ordinances related to permitted and non-permitted uses, lot divisions, and any other land use matter not specifically assigned to another land use authority.

**3.2 DESIGNATION OF APPEAL AUTHORITY**

Except for decisions determining that a land use application is routine, an individual appointed by the Town Council as the Variance and Appeal Officer (Appeal Officer) shall be the Appeal Authority for purposes of this or other land use ordinances and shall also have the responsibility to review and act upon applications for variances.

**3.3 LAND USE AUTHORITY (LUA) AND APPEAL AUTHORITY TABLE**

The table in this section is for reference purposes only and the text in other sections of this land use ordinance, not the table, governs the role of each entity shown on the table.

<u>Land Use Application</u>	<u>Advise LUA</u>	<u>Land Use Authority</u>	<u>Appeal Authority</u>
Subdivision approval	Planning and Land Use Commission	Town Council	Appeal Officer
Temporary Accessory Dwellings (TADs) for Medical Purposes	Planning and Land Use Commission	Town Council	Appeal Officer
Applications related to noncomplying buildings	Planning and Land Use Commission	Town Council	Appeal Officer
Applications related to nonconforming uses	Planning and Land Use Commission	Town Council	Appeal Officer
Ordinance interpretations related to uses	Planning and Land Use Commission	Town Council	Appeal Officer

February 18<sup>th</sup>, 2015 ORDINANCE 85-3

<u>Land Use Application</u>	<u>Advise LUA</u>	<u>Land Use Authority</u>	<u>Appeal Authority</u>
Others land use applications not assigned	Planning and Land Use Commission	Town Council	Appeal Officer
Annual review and renewal of conditional use permits	Planning and Land Use Commission if requested	Town Council	Appeal Officer
Determination if an application for a conditional use permit is routine		Building Permit Agent	Planning and Land Use Commission**
Routine conditional use permits		Building Permit Agent	Appeal Officer
Nonroutine conditional use permits	Planning and Land Use Commission	Town Council	Appeal Officer
Determination if land use applications are routine*		Building Permit Agent	Planning and Land Use Commission**
Routine building permits and Certificates of Occupancy		Building Permit Agent	Appeal Officer
Routine temporary dwelling permits		Building Permit Agent	Appeal Officer
Routine certificates of land use compliance		Building Permit Agent	Appeal Officer
Routine decommissioning contracts		Building Permit Agent	Appeal Officer
Nonroutine building permits		Planning and Land Use Commission	Appeal Officer
Nonroutine temporary dwelling permits		Planning and Land Use Commission	Appeal Officer
Nonroutine certificates of land use compliance		Planning and Land Use Commission	Appeal Officer
Nonroutine decommissioning contracts		Planning and Land Use Commission	Appeal Officer
Variances		Appeal Officer	District Court

\*Land use applications include building permits, temporary dwelling permits, certificates of land use compliance, and decommissioning contracts.

\*\*Appeals must be filed within 15 calendar days after the date that a determination is officially made.

## **CHAPTER 4 PERMITTED AND CONDITIONAL USES**

### **4.1 USES PROHIBITED IN ZONES UNLESS EXPRESSLY PERMITTED:**

Uses of land which are not expressly designated as permitted or conditionally or otherwise permitted within the zones are hereby declared to be expressly prohibited.

### **4.2 PERMITTED USES FOR RAR-1 ZONE**

- A. Agriculture, the work of producing crops and the raising, care, and keeping of no more than one and one-half (1.5) animal units of livestock per acre on each legally platted lot as determined from section 4.9 of this land use ordinance. One acre of land on each legally platted lot shall be deemed as a residential housing acre and shall be excluded from the total acreage available for animal unit calculations. Also, no more than 8 large sized animals, or 30 medium sized animals, or 100 small sized animals shall be allowed on each legally platted lot as determined from the chart in section 4.9.
- B. The keeping of no more than thirty (30) bee hives on each legally platted Town lot.
- C. Single-family dwellings and buildings accessory thereto.
- D. One stand for the display and sale of agricultural and livestock products raised on the premises.
- E. The keeping of operable farm machinery, farm products and agricultural storage shed(s) for use on the premises.
- F. Feed storage buildings for the storage of farm products.
- G. Barns, corrals, pens, coops, and sheds for the keeping of livestock provided that such structures are located at least 70 feet from property lines between contiguous lots and at least 100 feet from any existing dwelling on a neighboring lot or parcel, and 20 feet from any open waterway that drains into a natural stream or into a drainage way that drains into a natural stream.
- H. Fences that conform to the Town Fencing Ordinance, except as described in Section 4.5.G of this land use ordinance and in the Town Fencing Ordinance as a fence designated for commercial agricultural use.
- I. Signs limited to one nonlighted sign not larger in area than eight (8) square feet and no higher than 6 feet from the natural grade immediately below the sign.
- J. Temporary Dwellings, as provided for in this land use ordinance.
- K. Temporary Accessory Dwellings for Medical Purposes, as provided for in this land use ordinance.
- L. Above ground water tanks that are no more than twelve (12) feet in height when measured from the top of the tank to natural grade and have a flat, non reflective finish that is similar in color to the surrounding soil and vegetation.

### **4.3 PERMITTED USES FOR RG-15 ZONE**

Single family dwelling.

### **4.4 PROHIBITED USES FOR RAR-1 AND RG-15 ZONES**

- A. Short-term rentals are prohibited. The use of property through rental arrangements for a period of less than twenty-five (25) days is a commercial use of property and is not permitted unless specifically allowed under other provisions of this land use ordinance. The intent of this provision is to prohibit use of property for commercial rental as overnight accommodations.
- B. Bed & Breakfasts are prohibited.
- C. Livestock feedlots, fur farms, animal hospitals, kennels, animal byproducts rendering plants, and migratory beekeeping operations of any size, either permanent or temporary, are prohibited.



D. On-site motor vehicle, trailer or boat repair shops; auto body and/or fender repair shops; manufacture of, assembly of, or on-site repair shops for heavy equipment, major appliances, or engines; junkyards; and mortuaries or crematoriums are prohibited. (See also Section 4.8.2 Prohibited Uses for Home and Premises Occupations.)

#### **4.5 CONDITIONAL USES FOR RAR-1 ZONE**

The following nonpermanent uses of land may be permitted in the RAR-1 zone upon compliance with the requirements set forth in this land use ordinance and after approval has been granted by the designated land use authority for a nonpermanent conditional use permit:

- A. Nurseries, botanical.
- B. Premises Occupations as provided for in this land use ordinance. (See also Section 4.8.2 Prohibited Uses for Home and Premises Occupations)
- C. Home Occupations as provided for in this land use ordinance. (See also Section 4.8.2 Prohibited Uses for Home and Premises Occupations)
- D. The raising, care, and keeping of no more than three (3) animal units of livestock per acre on each legally platted lot in the Town of Castle Valley as determined from section 4.9 of this land use ordinance. One acre of land on each legally platted lot shall be deemed as a residential housing acre and shall be excluded from the total acreage available for animal unit calculations. Also, no more than 12 large sized animals, or 50 medium sized animals, or 150 small sized animals shall be allowed on each legally platted lot as determined from the chart in section 4.9.
- E. Animals not listed on the chart in section 4.9 of this land use ordinance.
- F. Day care nurseries and family day care centers.
- G. Fences which exceed four (4) feet in height and which enclose more than one (1) acre of land on lots designated for commercial agricultural use as provided in Ordinance 2003-3.

The following permanent buildings and structures may be permitted in the RAR-1 zone upon compliance with the requirements set forth in this land use ordinance and after approval has been granted by the designated land use authority for a permanent conditional use permit:

- H. Public buildings.
- I. New or substantial changes to existing irrigation ditches, spring fed ponds, water pipelines, and flood control structures.
- J. Above ground water storage tanks that are different from those specified in Section 4.2.K of this land use ordinance.
- K. Schools, churches, cemeteries, parks, playgrounds and arboretums.
- L. Windmills and other wind energy systems.

#### **4.6 CONDITIONAL USES FOR RG-15 ZONE**

None.

#### **4.7 CONDITIONAL USE PERMITS**

If applicant is not the owner of the lot, then both applicant and owner must jointly request conditional use.

The Town Council may establish a procedure using appropriate forms and submittal requirements to determine the potential impact of a proposed conditional use for a home occupation or premises occupation and in order to determine if it is a routine or nonroutine conditional use application.

#### **4.7.1 Routine Conditional Use Permits**

If the Building Permit Agent determines, based on the information provided, that a proposed conditional use is for a home occupation or a premises occupation and is a routine matter and entitled to approval without conditions, he or she may act upon the application and make a final decision as the designated land use authority to approve it without conditions. The Town shall send notice briefly describing any approved routine conditional use permit to the owner of each parcel of property abutting the property upon which the conditional use is located. Any such owner may appeal the status of the conditional use permit as routine as noted in the following paragraph. The Building Permit Agent may not deny or condition a routine conditional use application, but shall deem an application which may be denied or conditioned to be a nonroutine conditional use requiring a final action by the Town Council.

#### **4.7.2 Appeal of Routine Designation**

A determination that an application for a conditional use permit for a home occupation or a premises occupation is routine may be appealed by the applicant, the Town, or an aggrieved party to the Planning and Land Use Commission within 15 calendar days after the date when the Building Permit Agent makes the determination. In reviewing the determination, the Planning and Land Use Commission may ratify the decision by the Building Permit Agent that the proposed conditional use is routine and act as the land use authority to grant it without conditions, or determine that the proposed conditional use is nonroutine and review and recommend action to the Town Council, which will act as the land use authority to approve, approve with conditions, or deny the application.

#### **4.7.3 Nonroutine Conditional Use Permits**

To allow neighbors time to respond to a nonroutine request for a conditional use permit, an applicant must submit his or her application for a nonroutine conditional use permit to the Town thirty (30) days before the meeting at which the permit request will first be heard by the Planning and Land Use Commission if it is acting to advise the land use authority. The Town shall send notice, including, if practical, a copy of the complete application with any attachments describing the proposal to the owner of each parcel of property abutting the property upon which the proposed conditional use is to be located at least fourteen (14) days prior to the Planning and Land Use Commission meeting if it is acting to advise the land use authority.

#### **4.7.4 Conditional Use Standards of Review – General Review Criteria**

In reviewing an application for a nonroutine conditional use permit, the land use authority shall identify the potential negative effects of the proposed use and then determine if each potential negative effect can be mitigated so that the impact of the proposed use does not exceed the impact of permitted uses in the RAR-1 zone.

In determining the impact of a proposed conditional use, the land use authority shall consider noise, traffic, air pollution, aquifer pollutants, flood potential, storage and removal of potentially hazardous or toxic materials, fire hazards, lighting, noxious odors, and other significant issues of health, welfare, or safety of the community.

A conditional use permit shall only be approved if it is routine or if reasonable conditions can be imposed to mitigate the negative effects of the proposed use in the proposed location so that:

- (a) the use will not be detrimental to the residential character of the neighborhood;
- (b) the structures associated with the use are compatible with the surrounding structures in terms of use, scale, and mass;
- (c) there is sufficient utility and infrastructure capacity within and adjoining the site;

- (d) the use will not be detrimental to the quality and availability of the Town's drinking water supply or to the aquifer;
- (e) the use will not be detrimental to the public health, safety and welfare;
- (f) the use will not create a greater risk of flood, fire or other hazards in excess of the risks associated with normal residential or agricultural use;
- (g) the use will not diminish the use and enjoyment of adjacent properties or create an adverse impact on the future use of the property as a residence;
- (h) the conditional use will not impose a potential substantial financial burden on the Town;
- (i) the use is not in conflict with the purposes and objectives of the General Plan as amended; and;
- (j) that approval of the use will constitute good land use and planning practice.

The designated land use authority may attach reasonable conditions or requirements to the granting of a nonroutine conditional use which may mitigate the negative effects of the proposed use and which the applicant must comply with as a condition of the grant or approval.

If any negative effect of the proposed use cannot be mitigated, then the proposed conditional use will be denied by the land use authority. The proposed conditional use may also be denied if it does not comply with applicable federal, state and local statutes. The findings and conclusions of the land use authority shall be supported by substantial evidence in the record of its review of the application.

Any conditional use not commenced within a one year period after the date of approval is void and the applicant must resubmit an application.

#### **4.7.5 Conditional Use Permit Renewal**

Permits for permanent conditional uses run with the land, transfer to new owners automatically, and are not required to be renewed each year. Permits for nonpermanent conditional uses (including home and premises occupations) are personal to the applicant, nontransferable, do not run with the land, and must be renewed each year.

A nonpermanent conditional use permit, whether routine or nonroutine, and including home and premises occupation permits shall be valid for a period of one year from the date of approval or until the next regular review of conditional use permits as provided for in this chapter.

Each nonpermanent conditional use permit shall be reviewed annually on a date or dates to be determined by the land use authority. An inquiry shall be made prior to review asking the permit holder if the holder wishes to renew the permit. If the holder of the permit applies for renewal, the conditional use permit shall be renewed unless the land use authority concludes that the conditions imposed have not been complied with or that the impact of the conditional use exceeds the impact of permitted uses in the RAR-1 zone.

At the time of review, the land use authority may amend the conditions imposed, and may also impose additional conditions on the use if the land use authority concludes that substantial evidence in the record demonstrates that amendments to the conditions or additional conditions are necessary to ensure that the impact of the conditional use does not exceed the impact of permitted uses in the RAR-1 zone.

The land use authority may also refuse to renew the nonpermanent conditional use if it concludes that substantial evidence in the record demonstrates that the negative aspects of the use cannot be mitigated so that the impact of the use does not exceed the impact of permitted uses in the RAR-1 zone.

#### **4.7.6 Conditional Use Permit Revoked**

Any conditional use permit, whether routine or nonroutine, nonpermanent or permanent, may also be revoked at any time if substantial evidence in the record supports any one of the following findings:

1. That the conditions imposed on the conditional use permit do not adequately mitigate the negative effects of the conditional use so that it can be conducted in a manner that meets the standards for conditional uses provided in this chapter; or
2. That the permit was obtained by misrepresentation or fraud; or
3. That the use for which the permit was granted has ceased or was suspended for 12 or more consecutive calendar months; or
4. That one or more of the conditions of the permit have not been met; or
5. That the use is conducted in conflict with any applicable federal, state and local statutes, including the procuring of all necessary building permits and business licenses from the Town or any other agency; or
6. The use has exceeded the scope of the original permit.

The land use authority will not amend the conditions, impose additional conditions, refuse to renew, or revoke a conditional use permit without first providing reasonable notice to the holder of the permit of a date and time when the holder can appear before the land use authority, be heard on the issues associated with the review of the permit, and respond to any evidence provided that supports amending, refusing to renew, or revoking the conditional use permit.

#### **4.8 SPECIFIC REVIEW CRITERIA FOR CONDITIONAL USE PERMITS FOR HOME AND PREMISES OCCUPATIONS FOR RAR-1 ZONE**

##### **4.8.1 Purpose**

The Town of Castle Valley recognizes the need or desire for some citizens to use their place of residence for limited nonresidential activities. However, the Town believes that the need to protect the integrity of its residential areas is of paramount concern.

The purpose of the following subsections are to allow for limited, commercial-type activities to be conducted within dwellings and on lots as either a home or premises occupation. The intent of these subsections are to insure the compatibility of home and premises occupations with community values, to avoid depreciation of property values, to preserve the aesthetic value of the surrounding community and/or avoid affecting adjacent neighbors in an invasive way. The following requirements have been put in place to assist the designated land use authority in making well-informed decisions whether to grant, grant with conditions, or deny conditional use permits for home and premises occupations at their discretion based on the potential impact on the surrounding residential community.

##### **4.8.2 Prohibited Uses for Home and Premises Occupations**

1. On-site motor vehicle, trailer or boat repair shops
2. Auto body and/or fender repair shops
3. Manufacture of, assembly of, or on-site repair shops for heavy equipment, major appliances, or engines
4. Junkyards
5. Mortuaries or crematoriums

##### **4.8.3 General Operating Requirements**

All approved home and premises occupations shall comply with the following operating requirements, in addition to any specific conditions imposed as part of the conditional use permit approval process:

- 1) The use of the dwelling for a home occupation shall be clearly incidental and clearly subordinate to its use as a residence. Entrance to the dwelling from the outside shall be the same entrance normally used by the residing occupants except when required for business purposes by regulation of the Southeast Utah Health Department or to meet Federal ADA standards.
- 2) A home occupation must be confined within a dwelling to not more than twenty-five (25%) percent of the gross area of one floor. No portion of any detached garage, carport, or other accessory structure shall be used for home occupation purposes. One accessory structure, not to exceed twelve hundred (1200) square feet, is allowed for a premises occupation.
- 3) No equipment or process shall be used in a home or premises occupation which creates a nuisance off the lot; no equipment or process shall be used which creates visible or audible interference in any radio or television receiver (as governed by FCC regulations), causes fluctuations in line voltage off the lot, or causes an increase in the demand for utility or infrastructure in excess of levels associated with residential or permitted agricultural use.
- 4) Only one (1) vehicle used in the home or premises occupation, not to exceed a 1 ton rated capacity, and owned or leased by the resident of the dwelling, may be parked on the site in addition to standard residential passenger vehicles. Upon request, and in an exceptional situation where justified by the evidence presented, the land use authority may approve a proposed conditional use for a home or premises occupation involving the parking of as many as three (3) vehicles, some or all of which may have greater than a one (1) ton rated capacity, on the lot.
- 5) No employee parking or parking associated with the conditional use is allowed on the street.
- 6) An allowed home or premises occupation may only be owned and/or operated by a person(s) residing in the dwelling.
- 7) Only one employee who does not reside in the dwelling is allowed on the premises at any given time. If more than one home occupation and/or premises occupation is allowed on a lot then a total of two employees who do not reside in the dwelling are allowed on the premises at any given time.
- 8) The conditions of this chapter shall apply to the combined uses of multiple home and premises occupations on a single lot so as to not produce an impact that is above the acceptable level of a single home or premises occupation.
- 9). Customers or business invitees coming to the home or premises occupations shall have appointments to conduct business with those operating the occupation and the occupation shall not be conducted so as to provide services to “drop in” customers.
- 10) Signs for home and premises occupations are limited to one (1) non-lighted sign of natural materials not larger than eight (8) square feet. No part of the sign shall be over 6 feet high measured from the natural grade immediately below the sign.
- 11) There shall be no marketing that calls attention to the fact that the dwelling and/or property is being used for business purposes. Telephone listings, or any other advertising of the business, shall only include the mailing address of the dwelling with no other mention of Castle Valley. The name, telephone number and purpose of the home or premises occupation may be advertised on the vehicle or vehicles allowed under subsection 4.
- 12) If the home or premises occupation provides services to customers who come to the home or premises to utilize those services, the hours that customers may come to the home or premises shall be between 8 am and 9 pm. No more than 5 vehicles per day shall be allowed on the lot for business purposes, excluding delivery vehicles.
- 13) If the home or premises occupation requires activities or machinery that produces noise that may disturb other residents on neighboring properties, such activities shall be conducted so that the noise level will not create a nuisance or detract from the use and enjoyment of other residents.

14) If the home or premises occupation requires activities, equipment, or uses materials that pose a fire risk, fire suppression equipment must be on site that is rated suitable to suppress a potential fire caused by the type of materials being stored or the type of activity being employed. Such activities shall be performed inside a building or within a graveled area with at least a 60 foot radius with a set back of at least 15 feet from the edges if conducted outdoors. Flammable materials shall be stored in a separate room, or fireproof metal cabinet, from any work area where sparks may be produced.

15) No home or premises occupation shall be allowed which is offensive or noxious by reason of the emission of odor, smoke, gas, dust, vibration, magnetic or electrical interference, or other similar impacts extending beyond the property line of the lot where the occupation is located in excess of levels associated with residential or permitted agricultural use.

16) No home or premises occupation shall produce, store or accumulate hazardous waste in excess of levels associated with residential or permitted agricultural use. Any allowed hazardous waste shall be properly contained to prevent odors, fumes, leaks, dust, insects, unsightly debris, animal infestations, or other hazardous conditions or nuisances.

17) Officials appointed by the Town of Castle Valley may, at all reasonable times during normal business hours and with prior notification, enter the premises for the purpose of inspecting to determine whether or not the requirements of this chapter are being complied with.

18) Any home or premises occupation in full compliance and permitted by the Town of Castle Valley prior to the adoption of this Chapter, but not in full compliance with this Chapter, shall be considered a nonconforming use subject to the provisions of Chapter 6 of this land use ordinance relating to nonconforming uses.

19) All home and premises occupations shall be operated in compliance with the conditions set forth above and any other conditions attached as part of the conditional use permit approval process.

20) Storage of equipment, vehicles and materials associated with the home or premises occupation will be allowed on the lot according to the following criteria:

- a) all equipment, vehicles and materials must be sufficiently screened or stored as to not detract from the scenic quality of the area
- b) maximum height of all equipment, vehicles and materials must not exceed fourteen (14) feet
- c) maximum lot coverage of all equipment, vehicles and materials must not exceed ten (10) percent
- d) Nonoperational vehicles or equipment may be stored on the lot in conformance with the provisions of the Town's Nuisance Ordinance
- e) any other conditions as the land use authority deems necessary to minimize the impact of the home or premises occupation on the surrounding community to an acceptable level.

#### **4.8.4 Premises Occupation Operating Requirements**

All premises occupations shall comply with the following operating requirements in addition to those imposed on home occupations and any other conditions imposed when the conditional use permit for a premises occupation is approved:

- 1) The one accessory building allowed will not exceed twelve hundred (1200) square feet for both indoor use and storage. If part of an existing accessory building is used as the one allowed accessory building for a premises occupation, then only 1200 square feet of that building may be used.
- 2) No structure or fixture associated with a premises occupation can be built such that the valuation of the property changes from residential to commercial.
- 3) All accessory structures must conform to the building standards described in Chapter 5 of this land use ordinance.

#### **4.9 PERMITTED LIVESTOCK REQUIREMENTS AND ANIMAL UNITS FOR RAR-1 ZONE**

In addition to the requirements regarding livestock in the Town's Watershed Protection Ordinance 96-1, the raising, care, and keeping of livestock shall be considered a permitted use provided that a density of no more than one and one-half (1.5) animal units per acre shall be allowed on each legally platted lot as determined from the chart in this section. Livestock not listed in this chart may be allowed through a conditional use permit. Also, no more than 8 large sized animals, or 30 medium sized animals, or 100 small sized animals shall be allowed on each legally platted lot as determined from the chart in this section. One acre of land on each legally platted lot shall be deemed as a residential housing acre and shall be excluded from the total acreage available for animal unit calculations. (Example: 5 acre lots would have 4 acres available for animal unit calculation: 4 acres x 1.5 animal units per acre = 6 animal units per 5 acre lot)

Livestock shall not be allowed on a lot where the owner or resident caretaker of such livestock does not reside, or on a lot that is contiguous with a lot where the owner or resident caretaker does not reside, except when rented, hired or borrowed for not more than thirty (30) days for weed or insect control. Livestock shall be maintained in such a way to minimize dust, odors, noise, loss of vegetation and loss of topsoil due to erosion, or other nuisances. Best management practices are conservation and land management practices that reduce or prevent leaching and runoff of pollutants to surface and groundwater. Proper management of animal waste shall implement best management practices through regular removal of manure from the lot, safe storage, application as a soil amendment, spread on unoccupied pastures to sun cure, or through composting of manure. Surface drainage from animal waste shall not be permitted to drain off the lot, into a natural stream, or into a drainage way that drains into a natural stream. Sufficient water rights to support the use of such livestock must be obtained.

##### **4.9.1 Fencing Requirements for livestock**

All livestock shall be properly fenced so as to be confined to the property and to prevent any trespassing of livestock upon the premises of another or to run at large within the town. The owner or caretaker of any livestock shall not allow the animal to graze on public property, or to be staked out on public property.

##### **4.9.2 Barn, Stable, Coop, Animal Shed**

Barns, corrals, pens, coops, and sheds for the keeping of livestock shall be located at least 70 feet from property lines between contiguous lots and at least 100 feet from any existing dwelling on a neighboring lot or parcel. This setback is not required for fenced pastures. Such structures shall also be 20 feet from any open waterway; and any surface drainage from such structures shall not be permitted to drain off the lot, into a natural stream, or into a drainage way that drains into a natural stream. Best management practices shall be employed to ensure that enclosures and coops are maintained in a clean and sanitary condition.

##### **4.9.3 Animal Units**

Animal units are a unit of measurement used to establish an equivalent density for various species of livestock. The animal unit capacity on any legally platted lot is determined by multiplying the number of animals of each species by the appropriate equivalency factor from the following chart and summing the resulting totals for all animal species contained in the operation.

**4.9.4 Animal Unit Chart** (An animal and offspring shall be considered to be one animal until six months after the birth of the offspring.)

**Large Sized Adults Over 6 months of Age** (No more than 8 large sized animals from this category shall be allowed as a permitted use and no more than 12 large sized animals from this category shall be allowed as a conditional use on each legally platted lot).

Bison, buffalo (under 2 years old) 0.50  
Bison, buffalo 1.00  
Burro, donkey 1.00  
Cattle, beef – slaughter and feed (under 2 years) 0.50  
Cattle, beef – slaughter and feed 1.00  
Cattle, dairy (bulls or cows 1.00)  
Horses, mules 1.00  
Horses – miniature 0.50  
Swine, mature broodstock 0.60

**Medium Sized Adults Over 6 Months of Age** (No more than 30 medium sized animals from this category shall be allowed as a permitted use and no more than 50 medium sized animals from this category shall be allowed as a conditional use on each legally platted lot).

Alpaca or Llama 0.20  
Burro, donkey -- miniature 0.40  
Emu, less than 100 lbs. 0.10  
Emu, more than 100 lbs. 0.20  
Goat, mature broodstock 0.10  
Goat, feeder (less than 80 lbs.) 0.05  
Goat, miniature 0.05  
Ostrich 0.20  
Sheep feeder (less than 80 lbs.) 0.10  
Sheep, feeder (more than 80 lbs.) 0.20  
Sheep, mature broodstock 0.40  
Swine, feeders (less than 50 lbs.) 0.10  
Swine, feeders (50 lbs. to market) 0.20

**Small Sized Adults Over 6 months of Age** (No more than 100 small sized animals from this category shall be allowed as a permitted and no more than 150 small sized animals from this category shall be allowed as a conditional use on each legally platted lot).

Chickens, Broiler or Layer 0.02  
Geese, ducks, swans, turkeys, peafowl 0.03  
Rabbit, fryer and mature 0.02

**Example 1 of Maximum Animals Allowed as a Permitted Use:**

3 Horses =	3 Animal Units
2 Cows =	2 Animal Units
5 Goats=	.5Animal Units
25 Chickens =	.5 Animal Units
<b>Total</b>	<b>6 Animal Units per legally platted 5 acre lot</b>



**Example 2 of Maximum Large Animals Allowed as a Permitted Use:**

2 Cows =	2 Animal Units
6 Miniature Horses =	3 Animal Units
<b>8 Large Animals</b>	<b>5 Animal Units</b>

**Example 3 of Maximum Medium Animals Allowed as a Permitted Use:**

2 Cows =	2 Animal Units
30 Goats =	3 Animal Units
<b>30 Medium Animals</b>	<b>5 Animal Units</b>

**4.10 SPECIFIC REVIEW CRITERIA FOR CONDITIONAL USE PERMITS FOR LIVESTOCK EXCEEDING ONE AND ONE HALF (1.5) ANIMAL UNITS PER ACRE FOR RAR-1 Zone**

The purpose of this section is to allow for a greater number of animal units per acre through the application and approval of a conditional use permit. The intent is to insure a balance of sustainable livestock practices for personal and business uses while preserving the quality of life for adjacent neighbors and protection of the Town's unconfined aquifer. Sustainable livestock practices ensure that the demands placed on the natural environment do not exceed or endanger the current supply of resources needed to sustain such practices. Also, it is the intent of this section to insure that animals have a humane environment under conditions and care that limit stress and are able to live in an appropriate and comfortable environment that includes sufficient space, proper facilities, shelter, and resting areas.

The following requirements have been put in place to assist the designated land use authority in making well-informed decisions whether to grant, grant with conditions, or deny conditional use permits for livestock of more than one and one half (1.5) animal units per acre, and for livestock not listed on the chart in section 4.9 of this land use ordinance, at their discretion based on the potential impact on the surrounding residential community and natural environment.

**4.10.1 General Operating Requirements**

Livestock of more than one and one-half (1.5) animal units per acre on each legally platted lot shall be allowed as a conditional use. Livestock not listed on the chart in section 4.9 of this land use ordinance shall also be allowed as a conditional use. One acre of land on each legally platted lot shall be deemed as a residential housing acre and shall be excluded from the total acreage available for animal unit calculations. A conditional use which allows more than one and one half (1.5) animal units per acre shall not exceed three (3) animal units per acre as determined from the chart in section 4.9 of this land use ordinance. Also, no more than 12 large sized animals, or 50 medium sized animals, and 150 small sized animals shall be allowed as a conditional use on each legally platted lot as determined from the chart in section 4.9 of this land use ordinance. (Example: 5 acre lots would have 4 acres available for animal unit calculation: 4 acres x 3 animal units per acre = 12 animal units per 5 acre lot).

**Example 1 of Maximum Animals Allowed as a Conditional Use Permit:**

6 Horses =	6 Animal Units
4 Cow =	4 Animal Units
10 Goats=	1 Animal Units
25 Chickens =	1 Animal Units
<b>Total</b>	<b>12 Animal Units per legally platted 5 acre lot</b>

**Example 2 of Maximum Large Animals Allowed as a Conditional Use Permit:**

4 Cows = 4 Animal Units

8 Miniature Horses = 4 Animal Units

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**12 Large Animals 8 Animal Units**

**Example 3 of Maximum Medium Animals Allowed as a Conditional Use Permit:**

4 Cows = 4 Animal Units

50 Goats = 5 Animal Units

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**50 Medium Animals 9 Animal Units**

All approved conditional use permits for livestock exceeding one and one-half (1.5) animal units per acre shall comply with the permitted livestock requirements in section 4.9 of this ordinance and the general operating requirements of this section, in addition to any specific conditions imposed as part of the conditional use permit approval process. A lower number than three (3) animal units per acre may be granted as a conditional use for the first year. This number may be increased at the time of renewal in subsequent years if the owner requests such an increase and if he or she is able to demonstrate that appropriate facilities and practices are being employed.

The Land Use Authority may set conditions to ensure that facilities are present and that appropriate and best management practices are being employed regarding:

- A. Prevention of surface or ground water contamination.
- B. Prevention of excessive manure accumulation – best management practices employed to ensure that regular mucking of manure occurs and shall be kept in areas that will not drain into a natural stream or into a drainage way that drains into a natural stream.
- C. Prevention of excessive insect accumulation through the use of organic methods.
- D. Prevention of odor, noise, or other nuisances – the number of certain types of male livestock may be limited such as limiting roosters due to noise or limiting male goats due to odor.
- E. Prevention of the loss of vegetation and loss of topsoil due to erosion. In some areas due to the fragile soils and sparse vegetative cover, property owners may be required to keep all livestock to an enclosed area. The Land Use Authority may also designate the areas of the lot suitable for maintenance of livestock.
- F. At least one half acre of pasture shall be available and utilized for each large animal exceeding one and one-half animal units per acre. The terrain and slope of the property must be suitable for such additional animals. When pasture is not appropriate for the type of animal, or when not available due to water quality, an outside area of at least one-half ( $\frac{1}{2}$ ) acre shall be provided for each large animal exceeding one and one-half (1.5) animal units per acre.
- G. Barn areas for medium sized animals shall provide a minimum of 15 square feet per animal.
- H. An outside area of at least one-tenth ( $\frac{1}{10}$ ) acre shall be provided and utilized for each medium sized animal (2,000 sq ft).
- I. An outside area of at least ten (10) square feet per fowl shall be provided and utilized.
- J. Coop areas for fowl shall provide a minimum of four square feet of habitable area per fowl.
- K. Sufficient water rights to support the use of such livestock must be obtained.
- L. Determination of appropriate animal unit equivalency factor for livestock not listed on the chart in section 4.9 of this land use ordinance based on livestock of similar weight and size listed on the chart. The animal unit equivalency factor determined shall be used when calculating the total number of animal units allowed per legally platted lot.

#### **4.11 TEMPORARY ACCESSORY DWELLINGS FOR MEDICAL PURPOSES (TADs)**

The Town of Castle Valley (herein referred to as Town) allows only one dwelling per platted lot. Repeated surveys regarding owners and residents preferences have continually supported maintaining one dwelling per lot as well as a rural agricultural environment. Over the years, however, a few residents have requested a way to care for aging parents who are able to maintain a separate residence but need close proximity of their family for assistance. The Temporary Accessory Dwelling For Medical Purposes section of land use ordinance is designed to accommodate this specific need.

##### **4.11.1 Physical Characteristics**

- A. TADs must be a recreational vehicle, park trailer, or a single-wide manufactured home.
- B. TADs must remain mobile by retaining their wheels, axles, and towing hitch. No TAD may have masonry skirting.
- C. TADs must be connected to the main dwelling's utilities and septic system. A septic upgrade is permitted, but no second septic system is allowed for a TAD. There will be no second electric meter for the TAD.
- D. TADs must be situated to the main dwelling in a manner that does not disrupt the current view shed of adjoining neighbors, and to protect open space.
- E. TADs may not have a basement, or other additions. No additional accessory buildings to serve the TAD shall be permitted.

##### **4.11.2 Use**

- A. Residents of a TAD are limited to people certified infirm, either physically or mentally, or to no more than three (3) care givers for the infirm property owners residing in the principle residence. The latter must be certified to be infirm. A care giver may be allowed to reside in the TAD with the infirm family member upon approval by the Town Council. Infirmity means that the person(s) are incapable of maintaining a residence on separate property. The infirmity must be due to physical or mental impairment. Financial hardship conditions, childcare and other convenience arrangements not relating to physical and mental impairment are not considered an infirm condition for which a permit can be issued.
- B. The nature of the infirmity must be certified by two (2) written statements: one from the patient's current primary care medical doctor (MD) or osteopath (DO), the second opinion from the patient's local primary care medical doctor from a Utah or Colorado licensed MD or DO. The statements shall be on the care provider's stationary or stamped by the office, and shall indicate that the patient is not physically or mentally capable of maintaining him/herself in a residence on a separate property, and is dependent upon someone being close by for assistance. The Town Council may allow the second certification from the patient's local primary care doctor to be submitted to the Town within three (3) months of the infirm family member taking occupancy of the TAD.
- C. TADs may only be used by immediate family members or designated caregivers. "Immediate family" is defined as the parents, children and siblings only of the property owners or lawful tenant of the property owner.
- D. No more than a total of three (3) persons shall occupy a TAD.
- E. Applicants must be the property owners of the subject lot, or if applicant is the lawful tenant of the property owner, the property owner must consent to the requirements of this application in writing including having their signature notarized on the application.
- F. A TAD permit is issued for specific persons who are to be named in the permit. Only the persons named in the permit may reside in the TAD.

- G. No TAD may be rented or leased.
- H. The care giver may remain in the TAD for up to thirty (30) days after the infirm family member no longer resides in the TAD.

#### **4.11.3 Other**

- A. TADs must remain taxable as personal property. The owner must retain the title, or “MSO”, and a copy must accompany the application and be filed with the Town. No “afixture” may be filed.
- B. The applicant must receive Town approval for temporary use of water rights to allow the temporary residential use of a TAD.
- C. TAD permits do not run with the land. No amount of investment by the permittee shall constitute a reason to have the TAD run with the land.
- D. A permittee assumes all financial risk related to installing and removing a TAD.
- E. No TAD shall violate the provisions of any deed restriction.
- F. The permit shall be signed by all of the property owners of the subject property and their signatures notarized, and recorded in the Recorder's Office of Grand County, Utah.

#### **4.11.4 Renewal Of Permits**

- A. TAD permit is valid for no more than two (2) years from the date of issuance and must be renewed on a BI- annual basis. All renewal requests must comply with the requirements for issuance specified at the time of renewal.
- B. It is the sole responsibility of the applicant to initiate and complete the renewal process.
- C. The Town will attempt to give a courtesy notice of the upcoming renewal date, but failure to receive notice does not waive enforcement of the renewal compliance date.
- D. The permit shall not be renewed until a review has been conducted by the designated land use authority to determine the continued validity of the use.
- E. Updated certifications of infirmity must be received from the patient’s local primary care medical doctor from Utah or Colorado licensed medical doctors or osteopaths, unless the Town Council waives this requirement.

#### **4.11.5 Expiration Of Permit**

- A. A TAD permit will expire immediately when any one (1) of the following occurs:
  - 1) At the end of two (2) years, if the permit has not been renewed.
  - 2) When the designated users of the TAD or the primary dwelling can no longer maintain a separate residence.
  - 3) When there is no longer someone residing in the principle residence who can provide the needed assistance for the residents of the TAD.
- B. The applicant shall agree to remove the TAD within sixty (60) calendar days after the unit has ceased to be used by the person(s) for which the permit was issued. In any event, the unit shall be removed from the premises by the day of the expiration of the permit, unless the permit has been renewed in conformity with these requirements.
- C. Upon completion of the permitted use, the TAD must be: removed from the property if it is a single-wide manufactured home, or stored in a manner that includes being disconnected from the septic and all utilities if it is a recreational vehicle.

#### **4.11.6 Permits Revoked**

- A. Permits are revoked when any one or more of the following occur:
  - 1) The property is transferred, assigned or sold. The TAD must be removed from the property before the property is conveyed.
  - 2) Any one or more of the requirements of the TAD permit are violated.
- B. If the permit is revoked, the TAD must be removed within two (2) weeks of the property owners being notified in writing of termination of the permit, except as noted in a. above. A certified letter sent to the most recent address on file with the Town will suffice as notification.

#### **4.11.7 Compliance**

- A. In order to assure compliance with this permit, the permit holder agrees to inspections by the Town's designated person at any reasonable time after prior notification.
- B. A security deposit of \$1000.00 will be held in an interest bearing escrow account for the duration of the permit. If the Town finds that enforcement of the security deposit requirement would cause substantial hardship and there is adequate substitute security for removal of the TAD, then the security deposit can be waived. In lieu of the security deposit the Town may accept a note and trust deed on the property as collateral for the security deposit.
- C. In the event that the TAD permit has expired or been revoked and the property owner has not removed the TAD in the time designated in subsections 5.B or 6.B of this section, the Town shall have the right to immediately and permanently remove the TAD from the subject lot, by means of a Court order or injunction to do so, or by any other lawful means. The security deposit shall be applied to costs of removal and/or compliance with this land use ordinance if the applicant has not paid all costs of removal and compliance.
- D. In the event the Town does not take any action to remove the TAD from the subject property in accordance with its rights to do so set forth in subsection 7.B of this section above, the Town's inaction, on one or more occasions, shall not be deemed a waiver or forfeiture or the Town's rights as set forth in this permit, to remove the TAD at any time thereafter.
- E. All applicants must sign a written statement that they have read, understood and will comply with the requirements of this land use ordinance.
- F. All applicants must sign an acknowledgement of the one dwelling per lot requirement of this land use ordinance. G. In the event that the applicant fails to comply with this land use ordinance, the Town will recover the costs of compliance by obtaining a judgment against the applicant and foreclosing on the judgment lien against the property.

#### **4.12 TEMPORARY DWELLING PERMITS ISSUED**

A property owner shall obtain a permit to use a temporary dwelling (as defined in section 1.6) on their lot for a period of two (2) years. The Town requires that a plot plan be submitted showing the location of the temporary dwelling and any other improvements on the lot. A permit for a temporary dwelling must be obtained before human habitation of a temporary dwelling (for any length of time, i.e. intermittent occupancy or permanent residency) on a lot may occur. (An unoccupied RV may be stored on a lot without a permit.) A temporary dwelling must be connected to a septic system or be self-contained. An inspection by the State Sanitarian regarding sewage disposal may be required. The Town may discontinue issuing and/or renewing Temporary Dwelling Permits at any time. There shall be no right created by this land use ordinance to use a Temporary Dwelling for human habitation for more than the two (2) year period of the permit. A Temporary Dwelling Permit is nontransferable.

#### **4.13 TEMPORARY DWELLING PERMIT RENEWAL**

If a temporary dwelling has not been replaced with a permanent one, removed, or changed to a stored RV two (2) years from the date of the issuance of the temporary dwelling permit, the property owner must apply for a renewal of the temporary dwelling permit by submitting a written request to the Town. Renewals are for two (2) year periods. In granting a renewal, the Planning and Land Use Commission may stipulate additional conditions for the continued use of the temporary dwelling.

#### **4.14 TEMPORARY DWELLING DECOMMISSIONING**

A temporary dwelling must be decommissioned no later than thirty (30) days after the occupancy of a permanent dwelling on a lot. Decommissioning may include removal of the Temporary Dwelling RV, or change of use to a stored RV, including disconnecting from a septic system. A site inspection by a Town official will be held to verify the decommissioning of the Temporary Dwelling.

### **CHAPTER 5 BUILDING AND LOT REQUIREMENTS**

#### **5.1 MINIMUM LOT SIZE**

The minimum lot size for the RAR-1 Zone is five (5) acres, easements included.

The minimum lot size for the RG-15 Zone is fifteen (15) acres, easements included.

#### **5.2 SETBACK REQUIREMENTS**

- A. For all buildings, including municipal buildings, water wells, solar panel arrays and other alternative energy structures, and septic systems, fifty (50) feet from a platted public street easement line.
- B. Except for barns, corrals, pens, coops, and sheds for the keeping of livestock, all solar panels and other alternative energy structures and buildings, including municipal buildings, shall be thirty (30) feet from the property line between contiguous lots.
- C. Water wells shall be located at least fifty (50) feet from the property line between contiguous lots and at least 100 feet from any existing septic system.
- D. Septic systems shall be located at least fifty (50) feet from the property line between contiguous lots and at least 100 feet from any existing water well.
- E. Barns, corrals, pens, coops, and sheds for the keeping of livestock shall be located at least 70 feet from property lines between contiguous lots and a least 100 feet from any existing dwelling on a neighboring lot or parcel.

#### **5.3 BUILDING AREA AND HEIGHT LIMITS**

- A. Except for municipal buildings, the combined square footage of all buildings located on a lot shall not exceed 7,000 square feet.
- B. The combined square footage of all municipal buildings located on a lot shall not exceed 9500 square feet.
- C. No building or addition to an existing building, including municipal buildings, shall exceed twenty-five (25) feet in building height except as provided for in Subsection H of this section.
- D. Except for municipal buildings, no more than 5,000 square feet of combined square footage on a lot shall exceed a building height of nineteen (19) feet tall.
- E. Except for new additions to existing buildings, the highest point of the structure determines building height for all of the combined square footage of that building. The highest point of a new addition to an existing building determines the building height for all of the combined square footage of that addition.
- F. All buildings, including agricultural buildings, on a lot are included in the maximum combined square footage except one or two accessory buildings as provided in section G.

G. No more than two accessory buildings on a lot may be excluded from the calculation of the maximum combined square footage if the excluded building or buildings are each no more than 120 square feet in area and no more than twelve (12) feet in building height, when measured from finished grade.

H. Buildings on a lot that were erected, or for which a complete building permit application was submitted, before May 13, 2008 and which do not comply with the provisions of Section 5.3 may continue in use as noncomplying buildings.

I. The owner of property upon which is erected a building which is noncomplying under Subsection H because of the building height, may make one addition that exceeds 25 feet in height to that building, provided that the one addition: does not exceed the building's existing maximum height; does not exceed a maximum height of thirty (30) feet; and does not exceed 500 square feet. No addition shall be allowed under this Subsection I which would increase the combined square footage of the building affected by the addition to more than 5,000 square feet.

#### **5.4 EVERY BUILDING TO BE ON PLATTED LOT**

All buildings, whether for dwelling or accessory use, shall be located and maintained on a legally platted lot in the Town of Castle Valley.

#### **5.5 ONLY ONE DWELLING PER PLATTED LOT**

Only one (1) building which contains a dwelling shall be located and maintained on a legally platted lot in the Town of Castle Valley. One (1) Temporary Accessory Dwelling for Medical Purposes (TAD), as provided for in Section 4.11, may also be located on a lot in the Town of Castle Valley along with one (1) dwelling. Only one kitchen is allowed per building per platted lot. Guest houses, apartments, duplexes, or other construction creating more than one dwelling per platted lot are prohibited.

#### **5.6 APPROVAL REQUIRED FOR LOT DIVISION**

To preserve the rural characteristic of the Town of Castle Valley through low density development and the health standards of the Town of Castle Valley through reasonably spaced water and septic systems, approval by the Town Council will be required before any legally platted lot in the Town can be divided. Such a division will only be considered for the purpose of adding the divided sections to existing lots of five (5) acres (including easements) or more and no remnant will be less than five (5) acres (including easements).

#### **5.7 ALL BUILDINGS MUST BE PERMITTED**

A. All buildings constructed in, reconstructed in, altered in, or moved into the Town, whether for dwelling or accessory use, and unless exempted from building permit requirements under the provisions of state statutes related to buildings that are not located in residential areas and which are used solely in conjunction with agriculture use, and not for human occupancy, must have land use approval from the Town of Castle Valley Building Permit Agent and a permit from the Grand County Building Inspector before commencing the construction or moving process.

B. All road easement encroachments must receive written approval by the Town's Roads Manager through the approval of a right of way encroachment permit application prior to commencing any work within a Town road easement.

C. All applications for Town land use approval shall follow the Town Building Permit Process as provided in Ordinance 95-6. Land use approval shall not be issued for a building that does not comply with this or any other Town land use ordinance.

D. A building permit for a permanent structure that is intended, or designed to be built, used, rented, or leased out to be occupied, or that is occupied for living purposes shall be approved provided that the permanent structure contains complete independent living facilities for living, sleeping, eating, cooking, and sanitation.

E. Buildings that are exempt from the building permit requirements because they are intended to be used solely in conjunction with agricultural use as provided in Subsection A must still comply with all provisions of this land use ordinance. No such building shall be constructed or moved into the Town until a certificate of land use compliance has been obtained from the Town of Castle Valley Building Permit Agent.

### **5.8 ALL PERMANENT BUILDINGS SHALL BE ON APPROVED FOUNDATIONS**

All buildings constructed in or moved into the Town that are intended for permanent habitation or accessory use shall be built or placed on and attached to a site-built, permanent foundation which meets the most recent standards set by the International Building Code. If the dwelling is a manufactured home, it must meet the most recent ICBO Guidelines for Manufactured Housing Installation.

### **5.9 CONVERSION OF EXISTING DWELLING TO AN ACCESSORY BUILDING**

If a new dwelling is to be constructed on a lot already containing an existing dwelling, a legally binding contract between the property owner and the Town must be signed and recorded guaranteeing that the existing dwelling will be decommissioned thirty (30) days after occupancy of the new dwelling, before a building permit for the new building containing a dwelling can be obtained. Conditions may be placed by the Planning and Land Use Commission for nonroutine decommissioning contracts to effect the decommissioning of the existing dwelling and conversion to an accessory building. These conditions may include removal of some of the fixtures that are part of what defines a dwelling in this land use ordinance, a statement of the intended new use, and guarantee that the building will never be used for human habitation regardless of length of time of occupancy. Decommissioning must occur within thirty (30) days after occupancy of the new dwelling. For the purposes of this section, a Temporary Accessory Dwellings for Medical Purposes (TAD) shall not be considered an existing dwelling.

## **CHAPTER 6 NONCOMPLYING BUILDINGS AND NONCONFORMING STRUCTURES**

### **6.1 NONCOMPLYING BUILDINGS**

A building that does not meet the requirement of all applicable national, state and county building, health, or safety codes and the requirements of this land use ordinance shall be considered noncomplying.

### **6.2 NONCOMPLYING BUILDINGS AND NONCONFORMING USES MAY BE CONTINUED**

A noncomplying building or structure or a nonconforming use of land may be continued to the same extent and character as that which legally existed on the effective day of the applicable regulations. Repairs may also be made to a noncomplying building or to a building housing a nonconforming use.

### **6.3 NONCOMPLYING STRUCTURES MAY BE MOVED, ENLARGED OR ALTERED— LIMITATIONS:**

Except as provided for in Section 5.3.I, no noncomplying structure may be moved, enlarged or altered, except in the manner provided in this section or unless required by law.

A. Any noncomplying structure may be repaired, maintained, altered or enlarged, except that no such repair, maintenance, alteration or enlargement shall either create any new noncompliance or



increase the degree of the existing noncompliance of all or any part of such structure.

B. A noncomplying structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

#### **6.4 NONCONFORMING USES MAY BE ENLARGED—LIMITATIONS**

Nonconforming uses within an existing building or a lot occupied by a nonconforming use may be expanded within the same building or lot in which said nonconforming use is located provided:

A. That nonstructural changes are made in the building.

B. That such increase or expansion is required to comply with an order to improve issued by a health or safety official acting in his/her official capacity.

C. That the Town Council has approved such increase or expansion.

#### **6.5 DAMAGED BUILDING MAY BE RESTORED**

A noncomplying building or structure and a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood or other calamity or act of nature, provided that the structure or use has not been abandoned by the owner, may be restored and the building or structure or use of such building, structure or parts thereof may be continued or resumed, provided that such restoration is started within a period of six (6) months from the year of destruction and is diligently prosecuted to completion within one (1) year. Such restoration shall not increase the floor space devoted to the nonconforming use over that which existed at the time the building became nonconforming.

#### **6.6 DISCONTINUANCE OR ABANDONMENT AND RESTORATION**

A building or structure or portion thereof or a lot occupied by a nonconforming use which is, or which hereafter becomes abandoned or which is discontinued for a continuous period of twelve (12) months or more shall not thereafter be occupied, except by a use which conforms to the regulations of the zone in which it is located. A noncomplying building or structure or portion thereof which is, or which hereafter becomes abandoned for a continuous period of twelve (12) months or more or that is required by law to be demolished, shall not thereafter be restored or rebuilt, except if restored or rebuilt to conform to the regulations of the zone in which it is located.

Abandonment may be presumed to have occurred if:

A. A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the Town regarding an extension of the nonconforming use;

B. The use has been discontinued for a minimum of one year; or

C. The primary structure associated with the nonconforming use remains vacant for a period of one year.

The Town may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

A. The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six (6) months; or

B. The property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

### **6.7 CHANGE TO A COMPLYING OR CONFORMING USE**

Any noncomplying building or nonconforming use which has been changed to a conforming use or complying building shall not thereafter revert back to a noncomplying building or a nonconforming use.

### **6.8 CHANGE TO ANOTHER NONCONFORMING USE PROHIBITED**

A nonconforming use of a building or lot shall not be changed to another nonconforming use whatsoever. Changes in use shall be made only to a conforming use within the zone.

## **CHAPTER 7 VARIANCES AND APPEALS**

All variance applications or appeals of land use application decisions shall follow the requirements as further provided for in Ordinance 2006-3.

### **7.1 VARIANCE**

Any person or entity desiring a waiver or modification of the requirements of this or other land use ordinances as applied to a parcel of property that he/she owns, leases, or in which he/she holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of this or other land use ordinances.

### **7.2 STANDARDS FOR VARIANCES**

1. The Appeal Authority may grant a variance only if each of the following conditions are met:
  - a. Literal enforcement of this or other land use ordinances would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purposes of this or other land use ordinances;
  - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
  - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
  - d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
  - e. The spirit of this or other land use ordinances are observed and substantial justice is done.
2. In determining whether or not enforcement of this or other land use ordinances would cause unreasonable hardship under this section, the Appeal Authority may not find an unreasonable hardship:
  - a. If the hardship is self-imposed or economic;
  - b. Unless it is located on or associated with the property for which the variance is sought; and
  - c. Unless it comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
3. In determining whether or not there are special circumstances attached to the property under this section, 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 zone.

4. The applicants shall bear the burden of proving all of the conditions justifying a variance have been met.
5. Variances run with the land.
6. The Appeal Authority may not grant use variances.
7. In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:
  - a. Mitigate any harmful affects of the variance; or
  - b. Serve the purpose of the standard or requirement that is waived or modified.
8. Decision on variance application is final when the Appeal Authority dates and signs the application, stating approval or denial of the application and the “Finding of Facts” or the written facts and evidence used in making the decision.

### **7.3 STANDARDS FOR REVIEW OF APPEALS TO THE PLANNING AND LAND USE COMMISSION**

The Planning and Land Use Commission shall act as the appeal authority from decisions by the Building Permit Agent determining that a land use application, as specified in section 3.1, is routine if an appeal from the determination of the Building Permit Agent is filed within 15 calendar days after the date that a determination is officially made by the Building Permit Agent. If, upon appeal, the Planning and Land Use Commission determines that the land use application is routine, it may issue approval on the land use application.

### **7.4 STANDARDS FOR REVIEW OF APPEALS TO THE APPEAL AUTHORITY**

1. The applicant or any other person or entity adversely affected by a decision administering or this or other land use ordinances may appeal that decision applying this or other land use ordinances by alleging that there is error in any order, requirement, decision, or determination made by an official in the administration or interpretation of this or other land use or ordinances.
2. Any person, including any officer or body of the Town of Castle Valley, affected by a decision administering or interpreting this or other land use ordinances or affected by the grant or refusal of a building permit or by any other decisions of the Land Use Authority in the administration or interpretation of this or other land use ordinances may appeal such a decision to the Appeal Authority. An appeal must be made within thirty (30) calendar days from the date of such decision by filing with the Town Clerk a written notice of appeal specifying the grounds thereof. When an appeal is taken from a decision of the Land Use Authority, the Town Clerk shall forthwith transmit to the Appeal Authority all papers, if any, constituting the record upon which the action appealed from was taken.
3. If there is a record, the Appeal Authority’s review is limited to the record provided by the Land Use Authority. The Appeal Authority may not accept or consider any evidence outside the Land Use Authority’s record. If there is no record, the Board may call witnesses and take evidence. Appellants may always reapply to the appropriate land use authority if they have new information that might change a decision previously made by the Land Use Authority.

4. An appeal filed in accordance with this section stays all proceedings in the appeal action, unless the Land Use Authority from whom the appeal is taken certifies to the Appeal Authority that by reason of facts stated in the certificate the stay would in his/her opinion cause imminent peril of life or property. In such cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Appeal Authority or by the district court on application and notice and on due cause shown.
5. The Appeal Authority, with the consultation of the appellant, shall fix the time for hearing any appeal within five (5) business days of the date of filing such appeal with the Town Clerk and shall give public notice thereof in accordance with the Utah Open and Public Meetings Act. The Appeal Authority shall give notice to the Town of Castle Valley, as well as notice to the parties in interest, at least ten (10) business days prior to the meeting to hear the appeal stating the time, place, and purpose of the meeting. The hearing shall take place no later than fifteen (15) business days from the filing of the appeal unless all parties, including the Town of Castle Valley and any land use applicants who have had a stay of proceedings applied to their application, agree otherwise.
6. Proceedings and hearings before the Appeal Authority shall be pursuant to rules adopted by the Town and in conformance with general principles of due process. Any party in interest may appear at such hearing in person, by agent, or by an attorney of his/her choice.
7. The person or entity making the appeal has the burden of proving that an error has been made in administering or interpreting this or other land use ordinances.
8. Only decisions applying this or other land use ordinances may be appealed to the Appeal Authority. A person may not appeal, and the Appeal Authority may not consider, any land use ordinance amendments.
9. Appeals may not be used to waive or modify the terms or requirements of this or other land use ordinances.
10. Decision on an appeal is final when the Appeal Authority dates and puts in writing their record of decision, which shall include: the "Finding of Facts" or the written facts and evidence used in making the decision; conclusions based on any provisions of any Town land use ordinance or any rule or regulation relied on; and the reasons why the conclusion is deemed appropriate in light of the facts found.

#### **7.5 DECISIONS ON APPEAL BY THE APPEAL AUTHORITY**

In exercising the above-mentioned powers the Appeal Authority may affirm, wholly or partly, or may modify the order, requirement, decision or determination of a Land Use Authority.

#### **7.6 NOTICE TO COUNCIL OF MEETING FOR VARIANCE OR APPEAL OF A LAND USE APPLICATION**

Before any application for a variance or an appeal is heard by the Appeal Authority, the Appeal Authority shall give notice to the Town of Castle Valley as well as other parties of interest at least ten (10) business days prior to the meeting stating the time, place and purpose of the meeting.

## **7.7 NOTICE OF FINAL DECISION FOR VARIANCE OR APPEAL OF A LAND USE APPLICAITON**

The Appeal Authority shall give written notice of all final decisions on variance applications or appeals of land use decisions to the Town of Castle Valley, appellant, applicant and other parties of interest within ten (10) business days after such a final decision is made.

## **7.8 DISTRICT COURT REVIEW OF APPEAL AUTHORITY DECISION**

1. Any person adversely affected by any decision of the Appeal Authority may petition the district court for a review of the decision.
2. In the petition, the plaintiff may only allege that the Appeal Authority's decision was arbitrary, capricious, or illegal.
3. The petition is barred unless it is filed within thirty (30) calendar days after the Appeal Authority's decision is final.
4. The Appeal Authority shall transmit to the district court the record of its proceedings including minutes, findings, orders and, if available, a true and correct transcript of its proceedings. If the proceeding was taped, a transcript of that tape recording is a true and correct transcript for purposes of this subsection.
5. If there is a record, the district court's review is limited to the record provided by the Appeal Authority. The court may not accept or consider any evidence outside the Appeal Authority's record unless that evidence was offered to the Appeal Authority and the court determines that it was improperly excluded by the Appeal Authority. If there is no record, the court may call witnesses and take evidence.
6. The court shall affirm the decision of the Appeal Authority if the decision is supported by substantial evidence in the record.
7. The filing of a petition does not stay the decision of the Appeal Authority. Upon receipt of a petition to stay, the Appeal Authority may order its decision stayed pending district court review if the Appeal Authority finds it to be in the best interest of the Town.

## **CHAPTER 8 SPECIAL RESTRICTIONS AND REQUIREMENTS**

All uses shall follow the requirements as further provided for in the Town's Nuisance Ordinance 2007-3, and in the Town's Watershed Protection Ordinance 96-1.

### **8.1 PLUMBING**

All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be constructed to conform with the most recent International Plumbing Code and approved by the Utah Department of Health and connected to a septic tank or other sewage system approved by the Southeast Utah Health Department.

## **8.2 REFUSE, DEBRIS, JUNK, AND DISABLED OR INOPERABLE VEHICLES**

It shall be prohibited to:

1. Keep or store of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property.
2. Accumulate used or damaged lumber; junk; scrap metal; machinery or machinery parts; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, boxes, barrels, bottles, cans, containers, ice boxes, refrigerators, cabinets, or other fixtures or equipment that
  - (a) Is stored so as to be visible from a public street or neighboring property, or
  - (b) Creates a threat to public health or safety, or
  - (c) Is a threat to the Castle Valley watershed

However, nothing herein shall preclude the placement of stacked firewood for personal noncommercial use on the premises.

3. Accumulate a collection of three or more vehicles in such a condition as to be deemed abandoned or in a condition of deterioration or disrepair, including, but not limited to a vehicle that is or has any of the following conditions: dismantled, broken windows; flat tires; no tires; missing doors; missing windows; missing fenders; missing hood; or missing trunk that
  - (a) Is visible from a public street or neighboring property
  - (b) Creates a threat to public health or safety, or
  - (c) Is a threat to the Castle Valley watershed

## **8.3 FUEL STORAGE TANKS AND TRASH RECEPTACLES**

Every tank for the storage of fuel shall be approved by the Castle Valley Fire District, installed outside of any building and shall be either buried below the surface of the ground or screened from public view by fencing or shrubbery. Every outdoor receptacle for ashes, trash, rubbish, or garbage shall be installed underground, screened, or so placed and kept as not to be visible from any street at any time except during refuse collections and shall be maintained to prevent spillage and the breeding of vermin and insects which are commonly a hazard to the health of humans and domestic animals.

## **8.4 NOXIOUS WEEDS AND FIRE HAZARDS**

All properties whether occupied or unoccupied, and any improvements thereon, shall at all times be maintained in such a manner as to prevent their becoming unsightly by reason of growth constituting noxious weed, a fire hazard on such property or the accumulations of rubbish or debris thereon.

## **8.5 GASES, FUMES, NOISE, OR OTHER POLLUTANTS**

Any use shall be prohibited which emits or discharges noxious or unreasonable odors, gasses, fumes, smoke, soot, or cinders or other pollutants into the atmosphere in amounts which exceed the standards as prescribed by the Utah State Air Conservation Board, the Board of Health, or such appropriate body as may be appointed by the Town Council. Any use shall also be prohibited which emits or discharges liquid or solid material into the soil or water in amounts which result in pollutants entering any water or drainage system in amounts exceeding the standards prescribed by the Utah State Water Pollution Control Board or the State Board of Health.

Any use shall be prohibited which makes or continues to make, or causes to be made or continued, any loud, unnecessary, or unusual noise that disturbs the peace and quiet of any receiving property or causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.

### **8.6 TRASH**

No trash, ashes, garbage or other refuse shall be discarded or dumped on the property of another or a public street or stored for disposal on any property for more than fourteen (14) days.

### **8.7 WOODSTOVES**

Any woodstove installed for use in a dwelling or accessory building in the Town shall be of a design and manufacture that is E.P.A. certified, or shall be equipped with a catalytic converter or similar device, or both, as necessary to meet or better the most recent E.P.A. and Utah standard for woodstove emissions.

## **CHAPTER 9 ENFORCEMENT, PENALTIES AND FINES**

### **9.1 ENFORCEMENT**

- A. The Town, the Town's Attorney, or any owner of real estate within the Town may, in addition to other remedies provided by law, institute: injunctions, mandamus, abatement, or any other appropriate actions; or proceedings to prevent, enjoin, abate, or remove the unlawful building, use or act. The Town need only establish the violation to obtain the injunction, as required by law.
- B. The Town may enforce the requirements of this land use ordinance by withholding approval. It is unlawful to erect, reconstruct, alter or change the use of, or move into the Town any structure without approval from the Town of Castle Valley Building Permit Agent and a permit from the Grand County Building Inspector unless exempted from building permit requirements under the provisions of state statutes related to buildings for agricultural use as provided for in section 5.7 of this land use ordinance. Such exempt buildings, however, shall not be constructed or moved into the Town until a certificate of land use compliance has been obtained from the Town of Castle Valley Building Permit Agent. The Town may not issue approval for a building unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conforms to the provisions of this land use ordinance then in effect.
- C. **LICENSE OR PERMIT TO COMPLY WITH ORDINANCE:** No license, building permit, or other permit shall be issued by any official, employee, or agent vested with the duty and authority to issue licenses or permits which would not be in conformance with the provisions of this land use ordinance in effect at the time of application. It shall be a violation of this land use ordinance for any official, employee, or agent to issue any permit or license in violation of this land use ordinance. Any license or permit not in compliance with this land use ordinance or issued on the basis of false or misleading information shall be void.
- D. The mayor, with the consent of the Town Council may appoint such enforcement personnel as deemed appropriate by the Town Council to administer the provisions herein.

- E. Any person aggrieved by a violation or apparent violation of the provisions of this land use ordinance may file a written complaint with the Town, who shall investigate such complaint and take the appropriate action, in accordance with Ordinance 2008-2, Complaint Process, to have the violation penalized or removed, if such violation is found to exist.
- F. When it is determined that there has been a violation of any provision of this land use ordinance, The Mayor may make initial contact by telephone, in addition to giving written legal notice, if deemed necessary by the Town Council in the following manner:
- Act on a recommendation of the Town Council to contact the owner, occupant, operator, lessee, agent or other responsible party by telephone.
  - Document all telephone conversations and observations.

Written legal notice of violation shall be served in the following manner:

- As the initial contact if telephone contact has been deemed unnecessary or after telephone contact has been attempted.
- Determine and include a list of violations, refer to the section or sections of this land use ordinance violated;
- Determine and specify a time for compliance with relevant land use ordinance provisions 30 days from the service of the notice;
- Serve the notice on the owner, occupant, operator, lessee, agent or other responsible party in person, provided that such notice and requirement shall be deemed to be properly served on such responsible party if a copy thereof is delivered to, posted on, or sent by registered or certified mail, postage prepaid, to the last known mailing address on file with the Grand County Assessor; and
- In the event the violation requires more than thirty (30) days to abate, the Town Council or the Complaint Resolution Board (as per Town Ordinance 2008-2) may develop a plan to abate the violation with specific actions and deadlines.

## 9.2 PENALTIES AND FINES

- A. **Criminal Penalty and Imprisonment.** Every person who violates this Land Use Ordinance is guilty of a Class B misdemeanor and may be punished by a criminal penalty not to exceed the maximum class B misdemeanor fine under Utah Code § 76-3-301 or a term of imprisonment up to six (6) months, or both.
- B. **Civil Penalty.** Alternatively, the Town Council may impose an appropriate civil penalty for each violation of this Zoning Ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code § 76-3-301, which civil penalties the Town Council shall specify and adopt under its authority herein and as granted by law with a minimum fine as established by resolution.
- C. **Attorneys' Fees and Costs.** In the event the Town Council must institute an action at law to enjoin a violation of, or enforce, this Land Use Ordinance, including payment of penalties imposed herein, it shall be entitled to recover all costs of such action, including reasonable attorneys' fees and court costs, including filing, service, and witness fees.



- D. **Continuing Violations.** Every day that any violation of this Land Use Ordinance shall continue shall constitute a separate offense.
- E. **Notices.** All notices required in this Section 9.2 shall be deemed sufficient if mailed by certified or registered mail, postage prepaid, addressed to each violator at the last known address on file with the Grand County Assessor.
- F. **Cumulative Remedies.** The penalties provided herein shall be cumulative of other remedies provided by law.

**CHAPTER 10 EFFECTIVE DATE**

**10.1 DATE THIS LAND USE ORDINANCE TAKES EFFECT**

This land use ordinance shall take effect immediately upon its adoption by the Town Council.

**PASSED, ADOPTED AND APPROVED** by the Town Council of the Town of Castle Valley in open session on the 18<sup>th</sup> day of February, 2015.

Those voting AYE: Mayor Erley, Council Members: Duncan Drogin, Hill & O'Brien.

Those voting NAY: None

ABSENT: None

**TOWN OF CASTLE VALLEY**

\_\_\_\_\_  
**David Erley, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Alison Fuller, Town Clerk**

**Official Seal of the Town of Castle Valley**