

ORDINANCE 85-3
THE TOWN OF CASTLE VALLEY ORDINANCE NUMBER 85-3
(This Ordinance 85-3 Dated June 17, 2010 Supersedes an Earlier Dated Ordinance 85-3)

AN ORDINANCE PROVIDING FOR ZONING IN THE TOWN OF CASTLE VALLEY, UTAH.

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

SECTION I.

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

I.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.

I.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 ordinance to limit the impact of new buildings and unattached structures on the viewsheds, privacy, and open space that are unique to Castle Valley.

I.1.3 INTERPRETATION.

In interpreting and applying this 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 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 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 ordinance shall prevail.

I.1.4 SEVERABILITY.

This 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 ordinance shall not be affected thereby.

I.2.1 AMENDMENTS TO THE ZONE AND MAP.

This zoning 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.

I.2.2 WRITTEN PETITION REQUIRED.

Any person seeking an amendment of this zoning 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 Town Council 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 Town Council. 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 zoning ordinance.

I.2.3 INTENT WITH RESPECT TO AMENDMENTS.

It is hereby declared to be public policy that this 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 ordinance and reflect the General Plan of the Town of Castle Valley.

I.2.4 DESIGNATION OF LAND USE AUTHORITY.

ORDINANCE 85-3 June 16, 2010

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 ordinance related to permitted and non-permitted uses, and any other land use matter not specifically assigned to another land use authority.

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

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

1.2.5 DESIGNATION OF APPEAL AUTHORITY:

Except as provided in Section 1.2.4, the Board of Adjustments shall be the Appeal Authority for purposes of this land use ordinance and shall also have the responsibility to review and act upon applications for variances.

1.2.6 LAND USE AUTHORITY AND APPEAL AUTHORITY TABLE

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

<u>Land Use Application</u>	<u>Advise Land Use Authority</u>	<u>Land Use Authority</u>	<u>Appeal Authority</u>
Subdivision approval	Planning and Land Use Commission	Town Council	Board of Adjustments
Temporary Accessory Dwellings (TADs)	Planning and Land Use Commission	Town Council	Board of Adjustments

ORDINANCE 85-3 June 16, 2010

for Medical Purposes

Applications related to non-complying buildings	Planning and Land Use Commission	Town Council	Board of Adjustments
Applications related to non-conforming uses	Planning and Land Use Commission	Town Council	Board of Adjustments
Ordinance interpretations related to uses	Planning and Land Use Commission	Town Council	Board of Adjustments
Others land use applications not assigned	Planning and Land Use Commission	Town Council	Board of Adjustments
Annual review and renewal of conditional use permits	Planning and Land Use Commission if requested	Town Council	Board of Adjustments
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	Board of Adjustments
Non-routine conditional use permits	Planning and Land Use Commission	Town Council	Board of Adjustments
Determination if zoning applications are routine*	Building Permit Agent		Planning and Land Use Commission**
Routine building permits		Building Permit Agent	Board of Adjustments
Routine temporary dwelling permits		Building Permit Agent	Board of Adjustments
Routine certificates of land use compliance		Building Permit Agent	Board of Adjustments
<u>Land Use Application</u>	<u>Advise Land Use Authority</u>	<u>Land Use Authority</u>	<u>Appeal Authority</u>
Routine decommissioning contracts		Building Permit Agent	Board of Adjustments
Non-routine building permits		Planning and Land Use Commission	Board of Adjustments
Non-routine temporary dwelling permits		Planning and Land Use Commission	Board of Adjustments

ORDINANCE 85-3 June 16, 2010

Non-routine certificates of land use compliance	Planning and Land Use Commission	Board of Adjustments
Non-routine decommissioning contracts	Planning and Land Use Commission	Board of Adjustments
Variances	Board of Adjustments	District Court

*Zoning 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.

I.3.1 DEFINITIONS:

For the purpose of this 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.

I.3.2 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.

A. AGRICULTURE: The work of producing crops & raising of livestock.

B. 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.

B.1. 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 ordinance, Bed & Breakfasts are not permitted.

C. BUILDING: Any structure built for the support, shelter or enclosure of persons, animals or property of any kind.

D. 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.

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

F. BUILDING, PUBLIC: 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.

G. 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 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 1.3.3 of this ordinance are included in the definition of Combined Square Footage.

ORDINANCE 85-3 June 16, 2010

H. **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.

I. **CONDITIONAL USE:** A use which is specifically permitted by the terms of this ordinance after a hearing and the issuance of a written conditional use permit by the designated land use authority.

I.1. **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 Ordinance. Only one kitchen is allowed per building per platted lot.

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

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

L. **FAMILY DAY CARE CENTER:** A dwelling wherein ordinary care and supervision are provided during customary day-time periods by the resident family to non-related 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.

M. **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 non-habitable space that have a ceiling height of five (5) feet or more.

M.1. **FOSTER CARE HOME:** A dwelling wherein room, board, care and supervision are provided by the resident family under the approval and supervision of the State Division of Social Services or other placement agency licensed by the State to provide for children who are unrelated to the resident family.

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

N.1. **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.

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

O.1. **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 the ground level established when the existing structure or disturbance was created. Earthwork will not necessarily qualify as existing grade and will require a determination from the Building Permit Agent.

O.2. **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 1.3.3 of this ordinance are included in the definition of Finished Grade.

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

Q. **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

ORDINANCE 85-3 June 16, 2010

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 1.3.3 of this ordinance are included in the definition of Building Height.

R. HOME OCCUPATION: An occupation for compensation conducted entirely within a dwelling.

R.1. 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.

S. 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.

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

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

V. DELETED

W. NONCONFORMING BUILDING: A building, structure or portion thereof which does not conform to the regulations of this zoning ordinance applicable to the zone in which such building is situated, but which legally existed prior to the effective date of this ordinance.

X. 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 the ordinance.

Y. NONCONFORMING USE: A use of premises which does not conform to the provisions of this ordinance, but which existed prior to the effective date of this ordinance.

Z. NON-PERMANENT CONDITIONAL USE PERMIT: A conditional use permit for a non-permanent use of land as listed in section I.4.3. Non-Permanent conditional use permits do not run with the land and must be renewed each year.

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

BB. 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.

ORDINANCE 85-3 June 16, 2010

- CC. PERMANENT CONDITIONAL USE PERMIT: A conditional use permit for a permanent building or structure as listed in section I.4.3. Permanent conditional use permits run with the land and transfer to the new owners automatically and are not required to be renewed each year.
- DD. PERSON: An individual, corporation, partnership, association, trustee or other legal entity.
- EE. PREMISES: A zoning lot together with buildings and structures located thereon.
- EE.1. ROOF: Anything that covers a building or structure.
- FF. 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.
- GG. 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.
- HH. 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.
- II. SIGN: A publicly displayed board bearing advertising or information.
- JJ. 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.
- KK. 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).
- LL. 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.
- MM. VARIANCE: A reduction of a setback, an area requirement or height as distinguished from a conditional use, to be determined by the Board of Adjustments.
- NN. 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.
- OO. (Deleted).
- PP. 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.
- QQ. TOWN COUNCIL. The Castle Valley Town Council, which includes the Mayor and Council members.
- RR. LAND USE AUTHORITY. The person or board designated in this 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.

SS. ROUTINE APPLICATION. An application for zoning 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 chapter 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 chapter 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.

TT. NON-ROUTINE APPLICATION. An application that is not routine.

I.3.3. ILLUSTRATIONS FOR DEFINITIONS:

Illustrations A1 and A2 - Combined Square Footage - Basement Areas

QuickTime™ and a
decompressor
are needed to see this picture.

Illustration B - Combined Square Footage - Roof Extension

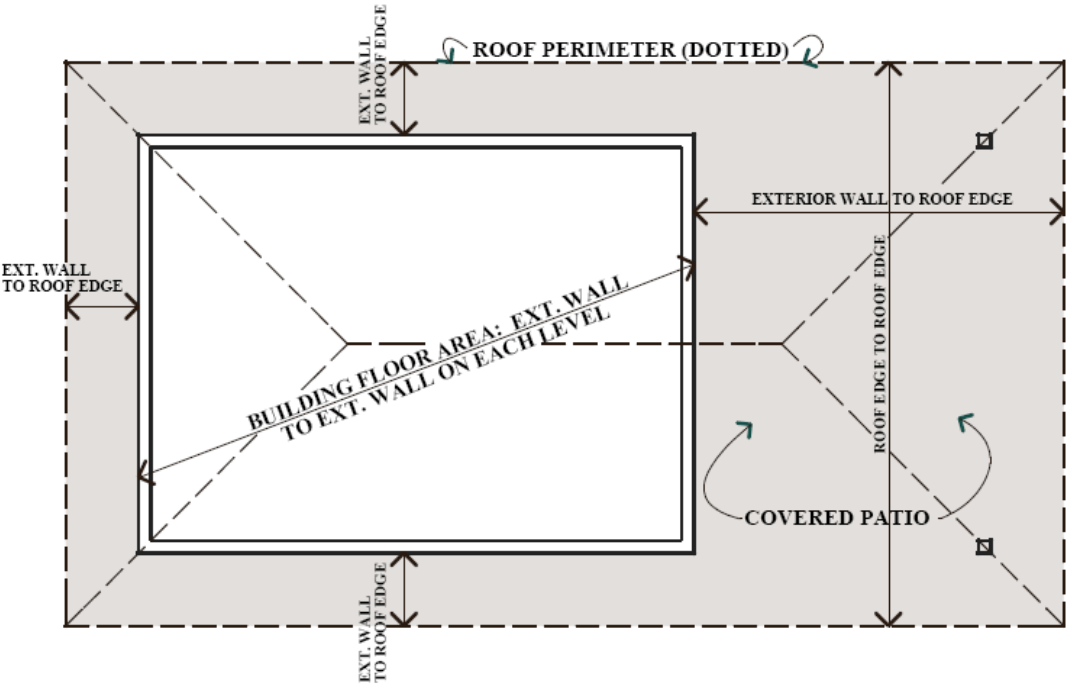


ILLUSTRATION B
(COMBINED SQ. FT. ROOF EXTENSION)

SCALE: NONE

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

QuickTime™ and a
decompressor
are needed to see this picture.

QuickTime™ and a
decompressor
are needed to see this picture.

I.4.1. PERMITTED USES for RAR-1 Zone:

ORDINANCE 85-3 June 16, 2010

- A. Agriculture, farming, and truck gardening.
- B. Single-family dwellings and buildings accessory thereto.
- C. One stand for the display and sale of agricultural products raised on the premises.
- D. The raising, care and keeping of animals and fowl for family use and consumption.
- E. The keeping of operable farm machinery, farm products and storage shed(s) for use on the premises.
- F. Barns, corrals, pens, coops, sheds and feed storage buildings for the keeping of animals and fowl and the storage of farm products.
- G. Fences that conform to the Town Fencing Ordinance, except as described in section I.4.3.G on this ordinance and in the Town Fencing Ordinance as a fence designated for commercial agricultural use.
- H. Signs limited to one non-lighted sign not larger in area than eight (8) square feet and no higher than 6 feet from the natural grade immediately below the sign.
- I. Temporary Dwellings, as provided for in this ordinance.
- J. Temporary Accessory Dwellings for Medical Purposes, as provided for in this ordinance.
- K. 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.

I.4.2. PERMITTED USES For RG-15 Zone:

Single family dwelling.

I.4.3 CONDITIONAL USES for RAR-1 Zone:

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

- A. Nurseries, botanical
- B. Premises Occupations as provided for in this ordinance.
- C. Home Occupations as provided for in this ordinance.
- D. Raising or boarding of livestock or other animals for sale or compensation.
- E. (Bed and Breakfasts Deleted, Ordinance 97-1)
- F. Day care nurseries, family day care center, and foster care homes
- 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 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, flood control structures, and windmills
- J. Above ground water storage tanks that are different from those specified in Section 1.4.1.J of this ordinance
- K. Schools, churches, cemeteries, parks, playgrounds and arboretums

ORDINANCE 85-3 June 16, 2010

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 non-routine conditional use application. 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 non-routine conditional use requiring a final action by the Town Council.

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 non-routine 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.

To allow neighbors time to respond to a non-routine request for a conditional use permit, an applicant must submit his or her application for a non-routine 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.

In reviewing an application for a non-routine 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 use is not in conflict with the purposes and objectives of the General Plan as amended; and;
- (c) that approval of the use will constitute good zoning and planning

ORDINANCE 85-3 June 16, 2010

practice.

The designated land use authority may attach reasonable conditions or requirements to the granting of a non-routine 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

A Non-Permanent conditional use permit, whether routine or non-routine, 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 Non-Permanent 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 Non-Permanent 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.

Any conditional use permit, whether routine or non-routine, Non-Permanent 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.

Permits for Non-Permanent conditional uses (including home and premises occupations) are personal to the applicant, nontransferable and do not run with the land. Permits for Permanent conditional uses run with the land and transfer to new owners automatically.

1.4.4 CONDITIONAL USES For RG-15 Zone:

None.

1.4.5 CONDITIONAL USE PERMITS FOR HOME AND PREMISES OCCUPATIONS for RAR-1 Zone:

Purpose

The Town of Castle Valley recognizes the need or desire for some citizens to use their place of residence for limited non-residential 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 section is 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 this section is 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.

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), or causes fluctuations in line voltage off the lot.
- 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.

ORDINANCE 85-3 June 16, 2010

- 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 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 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.
- 15) 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.
- 16) Any home or premises occupation in full compliance and permitted by the Town of Castle Valley prior to the adoption of this article, but not in full compliance with this article, shall be considered a non conforming use subject to the provisions of Subsections 1.6.1, 1.6.2, 1.6.3, 1.6.4, 1.6.5 and 1.6.6 of this ordinance relating to non conforming uses.
- 17) 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.
- 18) 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) Non-operational 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

Premises Occupation Operating Requirements

All premises occupations shall comply with the following additional 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 Subsections 1.5.2, 1.5.3, 1.5.5, 1.5.6, 1.5.7, 1.5.8, and 1.5.9, of this ordinance.

I.4.6 BED AND BREAKFAST:

Deleted, Ordinance 97-1

I.4.7 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 the Zoning Ordinance is designed to accommodate this specific need.

REQUIREMENTS:

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

ORDINANCE 85-3 June 16, 2010

the current view shed of adjoining neighbors, and to protect open space.

E. TADs may not have a basement, porch (other than required access), or other addition. No additional accessory buildings to serve the TAD shall be permitted.

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. 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 primary care medical doctor (MD) or osteopath (DO), the second opinion from a Utah 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.

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.

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. 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

ORDINANCE 85-3 June 16, 2010

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 Utah licensed medical doctors or osteopaths, unless the Town Council waives this requirement.

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.

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.

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 sections 5.B or 6.B, 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 ordinance if the applicant has not paid all costs of removal and compliance.

ORDINANCE 85-3 June 16, 2010

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 section 7.B 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 ordinance.

F. All applicants must sign an acknowledgement of the one dwelling per lot requirement of the Zoning Ordinance.

G. In the event that the applicant fails to comply with this 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.

I.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.

I.5.2 SETBACK REQUIREMENTS:

A. For all buildings, water wells, and septic systems, fifty (50) feet from a platted public street easement line.

B. For all buildings, thirty (30) feet from the property line between contiguous lots. For water well and septic systems, fifty (50) feet from the property line between contiguous lots.

I.5.3 BUILDING AREA AND HEIGHT LIMITS:

A. The combined square footage of all buildings located on a lot shall not exceed 7,000 square feet.

B. No building or addition to an existing building shall exceed twenty-five (25) feet in building height except as provided for in Subsection H of this section.

C. No more than 5,000 square feet of combined square footage on a lot shall exceed a building height of nineteen (19) feet tall.

D. 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.

E. 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 F.

F. 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.

G. 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 Sections I.5.3 may continue in use as non-complying buildings.

H. The owner of property upon which is erected a building which is non-complying under Subsection G because of the building height may make one addition to that building at or below the building's existing maximum height, not to exceed a height of thirty (30) feet, and that the one addition may not exceed 500

square feet. No addition shall be allowed under this Subsection H which would increase the combined square footage of the building affected by the addition to more than 5,000 square feet.

I.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.

I.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 I.4.7, 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.

I.5.6. ALL BUILDINGS MUST BE PERMITTED:

A. All buildings constructed 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 applications for Town zoning 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.

C. 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.

I.5.7. 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 Uniform Building Code. If the dwelling is a manufactured home, it must meet the most recent ICBO Guidelines for Manufactured Housing Installation.

I.5.8. NON-CONFORMING BUILDING:

A building that does not meet the requirement of all applicable national, state and county building, health, and safety codes and the requirements of this ordinance shall be considered non-conforming.

I.5.9. TEMPORARY DWELLING PERMITS ISSUED:

A property owner shall obtain a permit to use a temporary dwelling (as defined in section I.3.2) 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 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 non-transferable.

I.5.10. 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.

I.5.11. 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.

I.5.12. 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 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 non-routine 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 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.

I.6.1 NONCONFORMING USES MAY BE CONTINUED:

A nonconforming building or structure or 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 nonconforming building or to a building housing a nonconforming use.

I.6.2 NONCONFORMING USES MAY BE ENLARGED—LIMITATIONS:

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

- A. That non-structural 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.

I.6.3 DAMAGED BUILDING MAY BE RESTORED:

A nonconforming 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, 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.

I.6.4 DISCONTINUANCE OR ABANDONMENT:

A nonconforming building or structure or portion thereof or a lot occupied by a nonconforming use which is, or which hereafter becomes, sold, abandoned or which is discontinued for a continuous period of nine (9) 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.

I.6.5 CHANGE TO A CONFORMING USE:

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

I.6.6 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 conforming use within the zone.

I.7.1 VARIANCES:

The Board of Adjustments may authorize, upon appeal, variance from the terms of this ordinance pertaining to area, setbacks, and height of buildings, where owing to special conditions, peculiar to the property, a literal enforcement of the provisions of this ordinance would result in a hardship which is unnecessary in carrying out the intent of this ordinance. Before any variance may be granted, however, it must be shown that:

A. The variance will not substantially affect the Master Plan of zoning and that adherence to the strict letter of the ordinance will cause difficulties and hardships upon the petitioners which are unnecessary in order to carry out the purposes of this ordinance.

B. Special circumstances attached to the property covered by the application that do not apply to other property in the same zone.

C. That because of said special circumstances, property covered by the application is deprived of privileges possessed by other properties in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.

D. That the difficulties and hardships were not created by any act subsequent to the effective date of the regulation appealed from.

I.8.1 SPECIAL RESTRICTIONS AND REQUIREMENTS:

A. All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be

constructed to conform with the most recent Uniform Plumbing Code approved by the Utah Department of Health and connected to a septic tank or other sewage system approved by the Southeast Utah Health Department.

B. The space around buildings and structures in the Town shall be kept free from refuse and debris. No yard, open space, or land in the Town may be used for the storage of junk, or inoperable or wrecked vehicles.

C. 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.

D. 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.

E. Any use shall be prohibited which emits or discharges gasses, fumes, noise 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.

F. 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.

G. 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.

H. Short-term rentals 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 the Zoning Ordinance. The intent of this provision is to prohibit use of property for commercial rental as overnight accommodations.

I. Bed & Breakfasts are prohibited.

I.9.1 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).

I.10.1 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 may be developed in the future and is used to establish different future possible zoning areas for commercial, residential, and industrial.

I.11.1 USES PROHIBITED IN ZONES UNLESS EXPRESSLY PERMITTED:

Uses of land which are not expressly permitted or conditionally permitted within the zones are hereby declared to be expressly prohibited. Any person aggrieved by the decision may appeal said decision to the Town Council.

Section II. ENFORCEMENT

III.1 PUNISHMENT AND FINES

A. Every person who engages in any land use activity in violation of the provisions of this Ordinance is guilty of a misdemeanor and may be punished by a fine not to exceed two hundred ninety-nine dollars (\$299.00) and/or a term of imprisonment not to exceed six (6) months.

B. 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.

C. At the direction of the Town Council an action may be brought in the name of the Town to enjoin a violation of this Ordinance, to require compliance therewith and to recover all costs of such action including court costs and reasonable fees to reimburse the Town for the services of legal counsel and other necessary witnesses.

D. Each day such a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

E. LICENSE OR PERMIT TO COMPLY WITH ORDINANCE: No license or 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 Ordinance. It shall be a violation of this Ordinance for any official, employee, or agent to issue any permit or license in violation of this Ordinance. Any license or permit not in compliance with this Ordinance or issued on the basis of false or misleading information shall be void.

II.1.2 DATE THIS ORDINANCE TAKES EFFECT

This 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 16th day of June, 2010.

ORDINANCE 85-3 June 16, 2010

Those voting AYE: Dave Erley, Tory Hill, Brooke Williams.

Those voting NAY: Aaron Davies.

ABSENT: Valli Smouse.

APPROVED:

ATTESTED:

David Erley, Mayor

Denise Lucas, Town Clerk

Official Seal of the Town of Castle Valley