

ORDINANCE 85-3
THE TOWN OF CASTLE VALLEY
(This Ordinance 85-3 dated 7.19.2023, 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:

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CHAPTER 1 GENERAL PROVISIONS

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. Unless otherwise defined in this Ordinance, all capitalized terms used herein shall have the meaning ascribed to them in the Municipal Land Use, Development, and Management Act at Section 10-9a-103, Utah Code Annotated

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.

ACCESSORY STRUCTURE:

A structure that is accessory to, and subordinate to, that of the Dwelling and that is located on the same lot.

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, 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 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. The area of any portion of the building which is not enclosed, but which is directly below an enclosed upper floor, for uses including but not limited to carport, patio, or storage shall also be included in the Combined Square Footage, measured between the supports and the main wall, provided: the average finished grade of such area is 6% or less; only those parts of such area with a ceiling height of seven feet or more shall be counted (the lowest point of any joists or other horizontal supports shall determine the ceiling height); and the narrowest horizontal dimension (width) of such area is 8 feet or more, and a total square footage of 200sq. ft. or more. 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 contains one or two legally permitted Dwelling Units. Residing in additional structures, such as, but not limited to, Temporary Dwellings and other temporary structures that cannot be given building permits such as yurts and teepees, is not permitted if another structure is being used as a residence.

DWELLING UNIT: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation (toilet, sink, and approved wastewater disposal system). Yurts, teepees, and other temporary structures that cannot be given building permits are considered Dwellings if used and occupied as a residence. Only one Kitchen as defined in this Land Use Ordinance is allowed per legally permitted Dwelling Unit. Additional Kitchens may be allowed in an Accessory Structure through an approved Conditional Use Permit.

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

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 human-made cuts, fills, excavation, grading, or similar earth-moving processes. For sites that have existing structures or older disturbances to the land that make natural grade indistinguishable from existing grade, existing grade shall be the ground level established when the existing structure or disturbance was created. Recent or new earth-moving 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 (or a vertical line extending directly below the vertical face) around the perimeter of the building intersects the Existing Grade or 2) the lowest point where the vertical face (or a vertical line extending directly below the vertical face) around the perimeter of the building intersects the Finished Grade. Building Height does not include chimneys, vents or building mounted or roof-mounted solar photovoltaic panels or modules. 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.

HOME OCCUPATION: An occupation for compensation conducted entirely within a Dwelling. (See also definitions for Conditional Use, Nonpermanent Conditional Use Permit, Permanent Conditional Use Permit, and Premises Occupation).

INTERNAL ACCESSORY DWELLING UNIT (IADU): A Dwelling Unit used as a rental or guest Dwelling Unit, as defined in Utah Code Section 10-9a-530, as amended; and created within the footprint of the one allowed Dwelling per legally platted lot, as described in Chapter 5 Section 10.

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. Only one Kitchen is allowed per legally permitted Dwelling Unit. Additional Kitchens may be allowed in an Accessory Structure through an approved Conditional Use Permit.

LAND USE APPLICATION: An application that is required by the Town and submitted by a Land Use Applicant to obtain a Land Use Decision. A Land Use Application does not mean an application to enact, amend, or repeal a Land Use Regulation.

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 REGULATION: Any ordinance, law, code, resolution, specification, fee or rule that governs the use or development of land. A Land Use Regulation does not include: a General Plan; a Land Use Decision of the legislative body acting as the Land Use Authority, even if the decision is expressed in a resolution or ordinance; or a temporary revision to an engineering specification that does not materially increase a Land Use Applicant's cost of development compared to the existing specification or impact a land use applicant's use of land.

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 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 Town Land Use Regulations, 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 the Town Land Use Regulation 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 a Town Land Use Regulation.

NONCONFORMING USE: A use of land that legally existed before its current land use designation, but because of one or more subsequent changes to a Town Land Use Regulation, 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 Town Land Use Regulations 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: A Land Use Application that is not routine; is expressly identified as nonroutine according to this Land Use Ordinance; or that may be sufficiently unique as to require advice or other services to the Town by professional parties to properly evaluate its compliance with Town Land Use Regulations and its impact in the zone in which the land use it to be located.

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 Structure 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.)

PRIMARY DWELLING: For the purposes of an Internal Accessory Dwelling Unit, a Primary Dwelling is a Dwelling that is occupied by the owner of record as the primary residence, as recognized by the Grand County Assessor.

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.

RENTAL DWELLING UNIT:

A Dwelling Unit that is available to be rented, leased, or hired out for a period of thirty (30) days or longer.

ROOF: Anything that covers a building or structure.

ROUTINE APPLICATION: A Land Use Application that involves uses expressly permitted by Town Land Use Regulations in the zone in which the land use is located, and does not require the imposition of conditions.

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 thirty (30) 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.

SOLAR ENERGY SYSTEM: a system of solar photovoltaic panels or modules and their ancillary equipment that relies upon sunshine as an energy source and is capable of collecting, distributing and storing (if appropriate to the technology) the sun's radiant energy. A solar energy system includes, but is not limited to, ground-mounted, pole-mounted, roof-mounted and building-mounted photovoltaic panels or modules, and light pole and electric charging station-mounted solar panels or modules.

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 residence for travel, recreational, and vacation use, including recreational vehicles such as: travel trailers, park trailers, camp trailers, motor homes, truck campers and vans and installed as a Dwelling and occupied for any length of time, i.e. intermittent occupancy or long-term residency. 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 Local Health Department. A Temporary Dwelling is considered a Dwelling. Only one Dwelling is permitted on a legally platted 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 Town 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

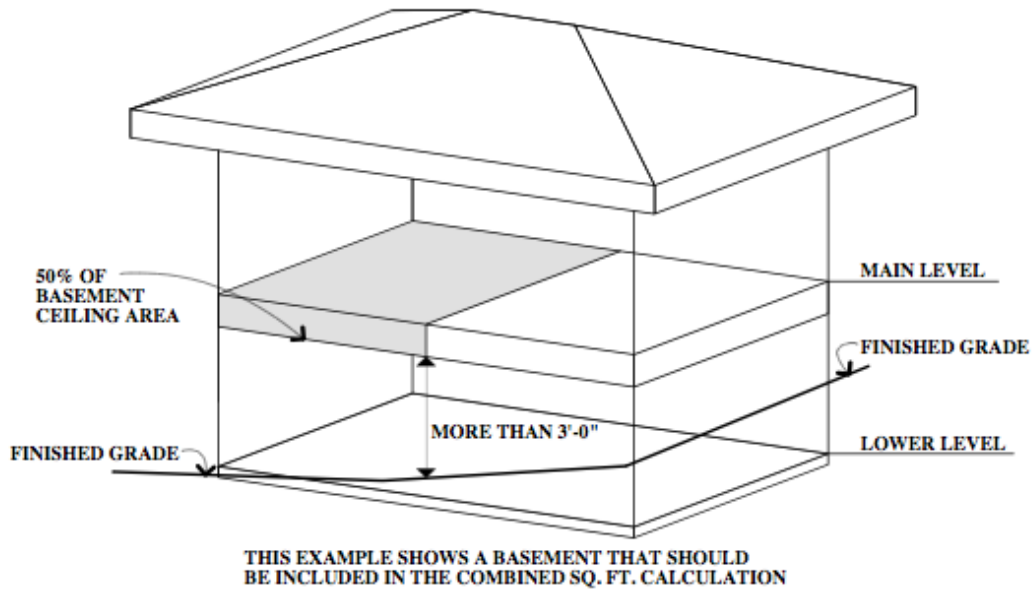


ILLUSTRATION A1 (COMBINED SQ. FT. BASEMENT AREA)

SCALE:

NONE

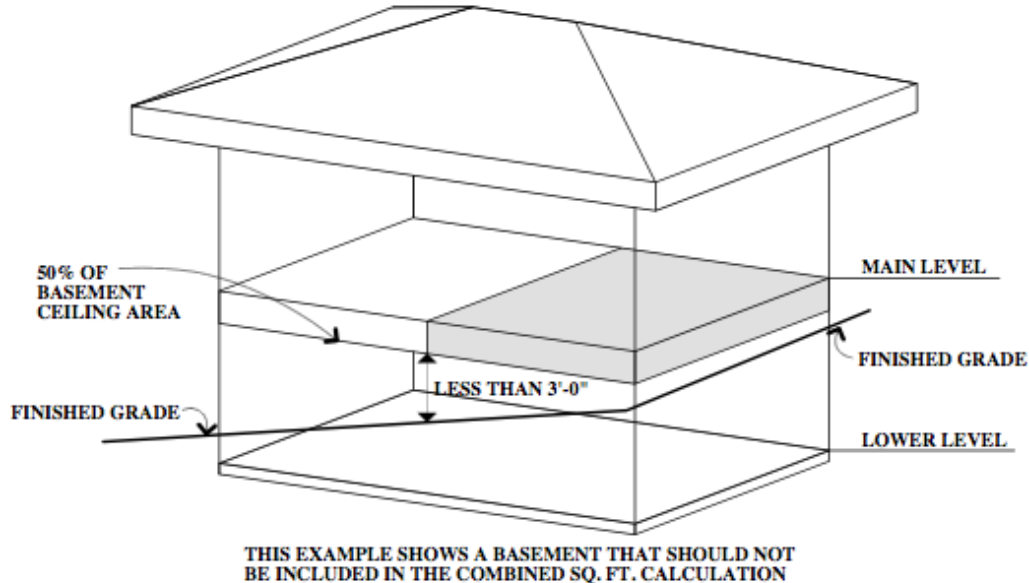
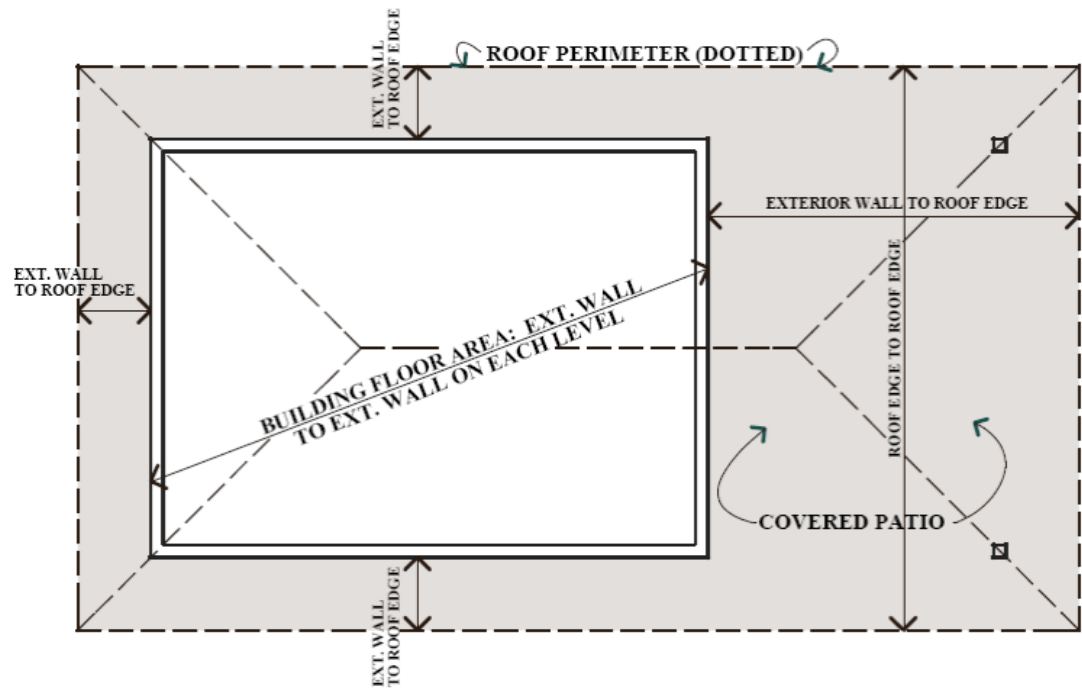


ILLUSTRATION A2 (COMBINED SQ. FT. BASEMENT AREA)

SCALE:

NONE

Illustration B – Combined Square Footage – Roof Extension

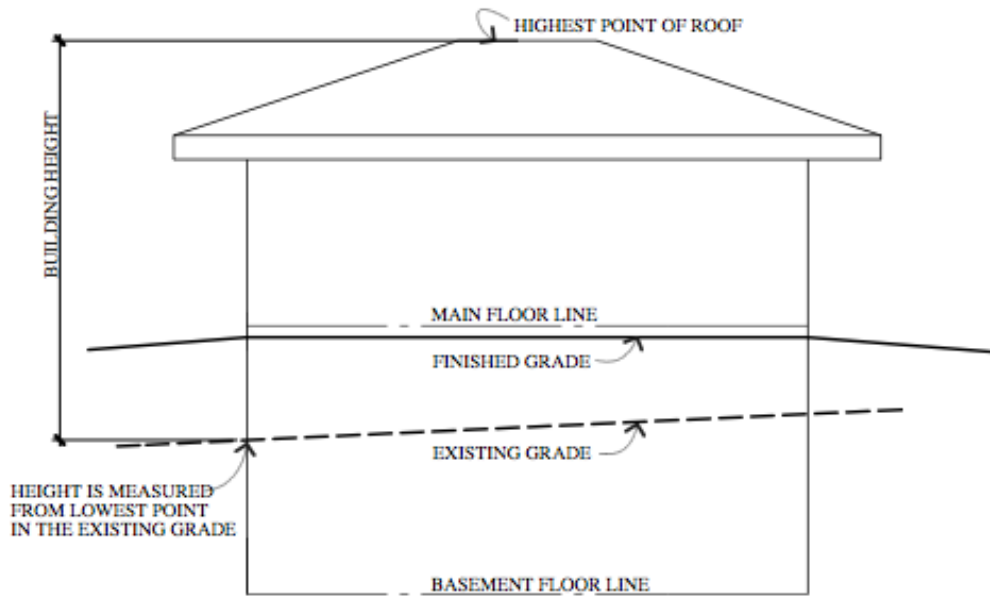


**ILLUSTRATION B
(COMBINED SQ. FT. ROOF EXTENSION)**

SCALE:

NONE

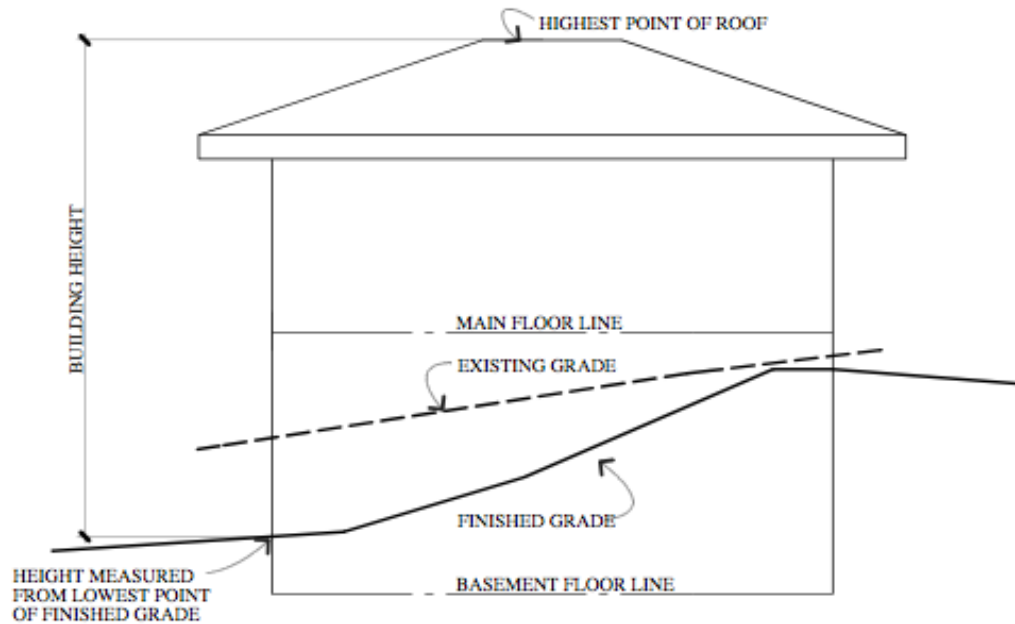
Illustrations C1 and C2 – Building Height/Finished Grade – Finished and Existing Grades



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

SCALE:

NONE

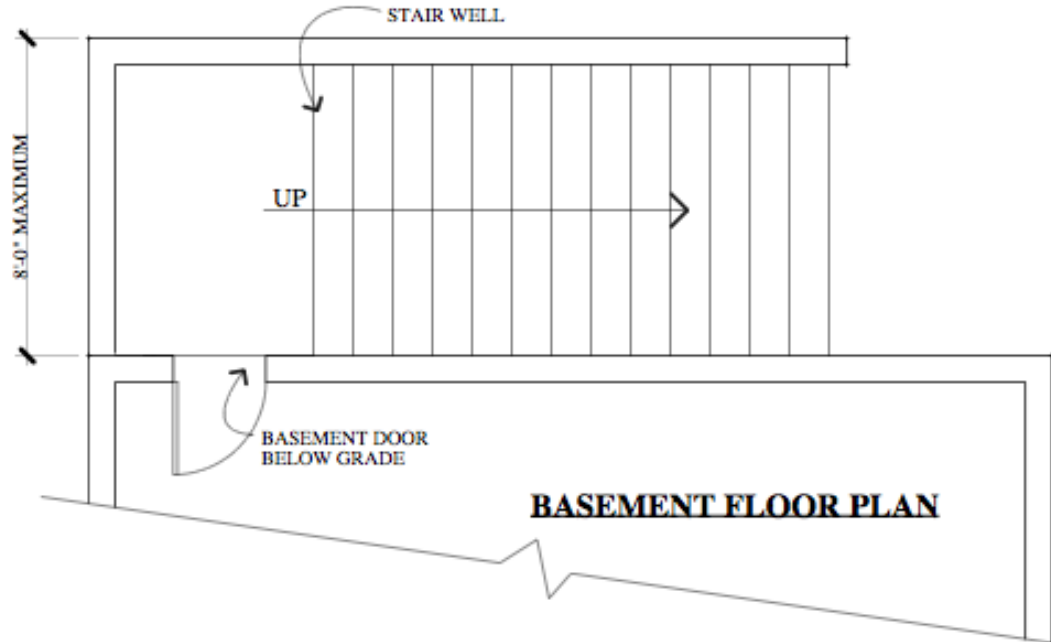


**ILLUSTRATION C2
(BUILDING HEIGHT/FINISHED GRADE-
FINISHED AND EXISTING GRADES)**

SCALE:

NONE

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



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

SCALE:

NONE



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

SCALE:

NONE

CHAPTER 2 AMENDMENT

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 perform Grade Reviews prior to any earth-moving. The Building Permit Agent shall share the Land Use Authority with the Roads Manager to perform Town Drainage Reviews. They shall review and determine whether an application for a Land Use Decision is routine or nonroutine and act on routine requests for a Land Use Decision for routine building permits, routine requests for Conditional Use Permits, routine requests for Temporary Dwelling Permits, routine requests for Internal Accessory Dwelling Unit permits, routine requests for electrical or solar energy system permits, routine requests for Certificates of Land Use compliance, routine requests for a Decommissioning Contract, requests for Septic permits, and requests for Certificates of Occupancy. The Building Permit Agent shall determine if, upon renewal, a Temporary Dwelling Permit shall require additional conditions for its continued use as a Temporary Dwelling and refer those that require conditions to the Planning and Land Use Commission. The Building Permit Agent may not deny or condition a routine Land Use Application, but shall deem an application which may be denied or conditioned to be nonroutine. The Building Permit Agent shall deem all Land Use Applications as nonroutine that require advice or other services to the Town by professional parties to properly evaluate its compliance with Town Land Use Regulations and its impact in the zone in which the land use is to be located.

3.1.2 Roads Manager

The Roads Manager shall act as the Land Use Authority to approve right of way encroachment permit applications. The Roads Manager shall share the Land Use Authority, with the Building Permit Agent, to perform Town Drainage Reviews.

3.1.3 Planning and Land Use Commission

The Planning and Land Use Commission shall review Land Use Applications and make recommendations to the Town Council prior to the Town Council taking action as the Land Use Authority with regard to all Land Use Applications where the Town Council is the Land Use Authority, including applications for nonroutine conditional use permits, 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 requests for a Land Use Decision for nonroutine building permits, Temporary Dwelling Permit renewals that require additional conditions for the continued use of the Temporary Dwelling, nonroutine requests for electrical or solar energy system permits, nonroutine requests for Certificates of Land Use compliance, or nonroutine requests for Decommissioning Contracts.

3.1.4 Town Council

The Town Council shall act as the Land Use Authority to review and act upon Land Use Applications related to the following: subdivision approval; nonroutine conditional use permits; review, annual renewal and revocation of both routine and nonroutine conditional use permits; Temporary Accessory Dwellings For Medical Purposes; noncomplying buildings; nonconforming uses; the interpretation of the provisions of Town Land Use Regulations related to permitted and non-permitted uses; lot divisions; and any other Land Use Decision not specifically assigned to another Land Use Authority.

The Town Council shall, by the issuance of a written determination, act as the Land Use Authority regarding the interpretation of the provisions of Town Land Use Regulations and resolve any discrepancies or situations where the text of a Town Land Use Regulation does not provide definitive clarity.

The Town Council shall act as the Land Use Authority to designate a lot for commercial use in order to employ exclusionary fencing as provided for in Ordinance 2003-3 and in Chapter 4 of this Land Use Ordinance.

3.2 DESIGNATION OF APPEAL AUTHORITY

3.2.1 Planning and Land Use Commission

The Planning and Land Use Commission shall act as the Appeal Authority for decisions by the Building Permit Agent determining that an application for a Land Use Decision for a building permit, a conditional use permit, an electrical or solar energy system permit, a certificate of land use compliance, or a decommissioning contract is routine or nonroutine, 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 a Land Use Application for a building permit, an electrical or solar energy system permit, a certificate of land use compliance, or a decommissioning contract is routine, it shall remand the Land Use Application to the Building Permit Agent for processing.

If, upon appeal, the Planning and Land Use Commission determines that a conditional use permit is routine, it shall ratify the Building Permit Agent's determination and approval of the conditional use permit.

If, upon appeal, the Planning and Land Use Commission determines that the Land Use Application for a building permit, electrical or solar energy system permit, a decommissioning contract, or the certificate of land use compliance is nonroutine, it may review and issue a Land Use Decision for the building permit, the electrical or solar energy system permit, the decommissioning contract, or the certificate.

If, upon appeal, the Planning and Land Use Commission determines that a conditional use permit is nonroutine, it shall review the conditional use permit application and recommend action to the Town Council, which will act as the Land Use Authority to approve, approve with conditions, or deny the application.

3.2.2 Variance and Appeal Hearing Officer

Except for decisions determining that a Land Use Application is routine, an individual appointed by the Town Council as the Variance and Appeal Hearing Officer (Officer) shall be the Appeal Authority for purposes of Town Land Use Regulations including Appeals from the assessment of Land Use Application fees. The Officer 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	Planning and Land Use Commission	Town Council	Appeal Officer
Others Land Use Decisions not assigned	Planning and Land Use Commission	Town Council	Appeal Officer
Annual review and renewal of Conditional Use Permits	Planning and Land Use Commission	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
Septic Permits		Building Permit Agent	Appeal Officer
Temporary Dwelling Permits		Building Permit Agent	Appeal Officer
Routine Electrical and Solar Energy System Permits		Building Permit Agent	Appeal Officer

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<u>Land Use Application</u>	<u>Advise LUA</u>	<u>Land Use Authority</u>	<u>Appeal Authority</u>
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
Temporary Dwelling Permit renewals that require conditions		Planning and Land Use Commission	Appeal Officer
Nonroutine Solar Energy System 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
Drainage Reviews		Roads Manager Building Permit Agent	Appeal Officer
Grade Reviews		Building Permit Agent	Appeal Officer
Land Use Application Fee***			Appeal Officer
Variances		Appeal Officer	District Court

*Land Use Applications include Building Permits, Temporary Dwelling Permits, Electrical and Solar Energy System 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.

***Land Use Application Fees are established by Resolution 2013-1, as amended, and by the Designated Land Use Authority per review of a Land Use Application.

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) beehives on each legally platted Town lot.
- C. One Single-family Dwelling and one Internal Accessory Dwelling Unit per legally platted lot, and buildings or structures 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 Ordinance 2003-3,
- 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. One Temporary Dwelling per legally platted lot, as provided for in this Land Use Ordinance.
- K. One Temporary Accessory Dwelling for Medical Purposes per legally platted lot, 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.
- M. Solar energy systems for residential or agricultural uses.

4.3 PERMITTED USES FOR RG-15 ZONE

Single-family Dwelling and Internal Accessory Dwelling Unit.

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 thirty (30) 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 Short-term Rental 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.)
- E. Accessory Dwelling Units not within the footprint of the Primary Dwelling are prohibited.

4.5 CONDITIONAL USES FOR RAR-1 ZONE

4.5.1 Nonpermanent Conditional Use Permits

Nonpermanent Conditional Use Permits may be deemed routine or nonroutine as further provided for under other sections of this Land Use Ordinance. 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. Day care nurseries and family day care centers.
- E. Additional Kitchens, as defined in this Land Use Ordinance, exceeding one Kitchen per legally permitted Dwelling Unit.

4.5.2 Permanent Conditional Use Permits

Permanent Conditional Use Permits shall be deemed nonroutine. 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:

- A. Public buildings.
- B. New or substantial changes to existing irrigation ditches, spring fed ponds, water pipelines, and flood control structures.
- C. Above ground water storage tanks that are different from those specified in Section 4.2.L of this Land Use Ordinance.
- D. Schools, churches, cemeteries, parks, playgrounds and arboretums.
- E. 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 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 Determination

The Town shall provide notice of the Building Permit Agent's written determination of routine designation of a conditional use permit, and approval thereof, to the applicant and owner of each parcel of property abutting the property upon which the conditional use is located. Any such owner, or any other aggrieved party, may appeal the Building Permit Agent's routine determination to the Planning and Land Use Commission within 15 calendar days of the date of the Town's notice of the same. If the Planning and Land Use Commission determines that the proposed conditional use is routine, it shall ratify the Building Permit Agent's determination and approval of the conditional use permit. If the Planning and Land Use Commission determines that the proposed conditional use is nonroutine, it shall review the conditional use permit application 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 any of the following: its use is conducted in conflict with any Town Land Use Regulation in effect at the time; its use is conducted in conflict with any applicable federal, state and local statutes; or 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 Town Land Use Regulation in effect at the time, or any applicable federal, state and local statutes, including the procuring of all necessary permits, licenses, and inspections from the Town or any other local, state, or federal agency; or
6. The use has exceeded the scope of the original permit.

The Land Use Authority shall 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.

4.7.7 Violations

The violation of any terms of this Chapter or any conditions imposed as part of a conditional use permit shall be unlawful, and may be remedied or punished as allowed by law.

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. Upon request, and pursuant to Section 4.7.4, the Land Use Authority may approve a proposed conditional use for a home or premises occupation involving the storage of flammable or hazardous materials in a separate and second Accessory Structure, when doing so would reduce the risk of fire or other hazards and promote greater protection to the Town's drinking water supply.
- 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 pursuant to Section 4.7.4, 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 on the same lot where the home or premises occupation will be.
- 7) Only one employee who does not reside in the Dwelling is allowed on the premises at any given time when performing business-related activity. 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 when performing business-related activity.
- 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. The Land Use Authority may limit the number of delivery vehicles allowed per week.
- 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, including but not limited to material classified as class II and III flammables by OSHA, such activity and equipment must be used and stored in compliance with OSHA regulations and 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. Such occupations must provide proof of inspection of required fire suppression equipment prior to any business activity commencing and with each yearly renewal. An inventory list (including quantities stored) of all such approved material shall be provided to the Town prior to any business activity commencing. The Land

Use Authority approving the home or premises occupation may set limits on the type and amount of such material allowed on the property at any given time.

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 material or waste in excess of levels associated with residential or permitted agricultural use. The Land Use Authority approving the home or premises occupation may set limits on the type and the amount of such material allowed on the property at any given time. Any approved hazardous material or waste shall be properly contained according to OSHA regulations and in such a way as to prevent odors, fumes, leaks, dust, insects, unsightly debris, animal infestations, or other hazardous conditions or nuisances. An inventory list (including quantities stored) of all such allowed material shall be provided and a plan for the safe disposal of said waste shall be approved by the Town prior to any business activity commencing.

17) If the home or premises occupation requires activities, equipment, or uses materials that pose a fire risk, or if the home or premises occupation produces, stores or accumulates hazardous material or waste the following actions must be undertaken prior to any business activity commencing and with each yearly renewal: 1. an inspection of the home or premises occupations shall be performed by a Town Official; and 2. proof of business liability insurance at a minimum of two (2) million dollars, with the Town listed on the policy as an additional insured.

18) 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.

19) 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.

20) Conditions may be imposed that require the Applicant to provide the Town with a copy of all inspection reports from any agency that regulates and inspects the home or premises occupation's activities.

21) 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.

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) Except as provided in Section 4.8.3.2, the one Accessory Structure allowed will not exceed twelve hundred (1200) square feet for both indoor use and storage. If part of an existing Accessory Structure is used as the one allowed Accessory Structure for a premises occupation, then only 1200 square feet of that building may be used. If a second Accessory Structure is allowed to store flammable or hazardous materials, then the combined square footage used for storage and other activities associated with the premises occupation shall not exceed 1200 square feet.
- 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. In addition, any application for a building permit for a property for which a Conditional Use Permit has already been issued, when the proposed structure or modification to a structure is to be used as part of, or to expand the conditional use, it shall be deemed nonroutine and must be submitted to the Planning and Land Use Commission for review and approval.

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. 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, sheds, and other Accessory Structures 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; 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. A female animal and its offspring shall be considered to be one animal until six months after the birth of the offspring; *provided, however*, that with regard to swine, piglets shall upon weaning be considered separate animals and classified as subadults. No more than 7 swine total shall be allowed as a permitted use on each legally platted lot.

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 on each legally platted lot. Of said 8 large-sized animals, no more than 4 may be adult broodstock swine, with only one litter of suckling piglets allowed on a legally platted lot at any given time.

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 Non-Swine Adults Over 6 Months of Age and Weaned Subadult Swine. No more than 30 medium-sized animals from this category shall be allowed as a permitted use on each legally platted lot. Of said 30 medium-sized animals, no more than 4 may be weaned, non-broodstock, subadult swine, which shall be raised to butcher with a weight appropriate for their breed and not to exceed 18 months of age.

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, weaned subadult .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 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 =	.5 Animal Units
25 Chickens =	.5 Animal Units
Total	6 Animal Units per legally platted 5-acre lot

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

2 Cows =	2 Animal Units
6 Miniature Horses =	3 Animal Units
8 Large Animals	5 Animal Units per legally platted 5-acre lot

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

2 Cows =	2 Animal Units
30 Goats =	3 Animal Units
30 Medium Animals	5 Animal Units per legally platted 5-acre lot

Example 4 of Maximum Animals Allowed as a Permitted Use:

2 Cows =	2 Animal Units
3 Swine (broodstock) =	1.8 Animal Units
4 Swine (non-broodstock subadults) =	.80 Animal Unit
5 Goats =	.5 Animal Units
25 Chickens =	.5 Animal Units
Total	5.6 Animal Units per legally platted 5-acre lot

Example 5 of Maximum Animals Allowed as a Permitted Use:

2 Cows =	2 Animal Units
4 Swine (broodstock) =	2.4 Animal Units
3 Swine (non-broodstock subadults) =	.60 Animal Unit
5 Goats =	.5 Animal Units
25 Chickens =	.5 Animal Units
Total	6 Animal Units per legally platted 5-acre lot

4.10 TEMPORARY ACCESSORY DWELLINGS FOR MEDICAL PURPOSES (TAD)

The Town of Castle Valley (herein referred to as Town) allows only one Dwelling per legally 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 this land use ordinance is designed to accommodate this specific need.

No TAD shall be allowed that does not comply with maximum square footage and building height requirements as further provided for in this Land Use Ordinance. Property owners may remove a building or buildings in order to install a TAD and not exceed Town Land Use Regulations pertaining to maximum square footage and building height requirements.

4.10.1 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 Structures to serve the TAD shall be permitted.

4.10.2 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. Infirmary 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 one of the following: the property owner or legal tenant of the subject lot; the property owner's or legal tenant's health-care power of attorney or legal guardian; a resident named as a trustee on the title of the subject lot; or an immediate family member of the lot owner or legal tenant. If the applicant is not the property owner, the property owner (or legal guardian) 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 a specific type of occupant to be listed on the permit such as a designated or paid caregiver, an immediate family member, or the property owner. Only the type of occupant listed 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.

4.10.3 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 "affidavit of an affixture" 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.

4.10.4 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 biannual 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.

4.10.5 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 principal residence 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 or decommission the TAD within ninety (90) 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 or the TAD has been decommissioned in conformity with these requirements.

C. Upon completion of the permitted use, the TAD must be:

- 1) decommissioned as a Dwelling;
- 2) removed from the property if it is a single-wide manufactured home; or
- 3) stored in a manner that includes being disconnected from the septic and all utilities if it is a recreational vehicle.

D. The Applicant may decommission, as a Dwelling, a TAD that is a single-wide manufactured home and convert it to an Accessory Structure through a nonroutine Decommissioning Contract. Conditions may be placed by the Planning and Land Use Commission in the nonroutine decommissioning contract to include: removal of some of the fixtures, facilities, and plumbing that are part of what defines a Dwelling in this Land Use Ordinance, such as the removal of circuits, or abandonment of both ends of the circuit, and gas line stubs used for cooking facilities, all the way to the attic or the crawl space; attachment of structure to an approved permanent foundation as provided for in the most recent ICBO Guidelines for Manufactured Housing Installation; a statement of the intended new use; and guarantee that the building will never be used as a Dwelling regardless of length of time of occupancy. Decommissioning must occur within ninety (90) calendar days after the unit has ceased to be used by the person(s) for which the permit was issued.

4.10.6 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.

4.10.7 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 number of permitted Dwellings per platted lot.

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

4.11 TEMPORARY DWELLING PERMITS ISSUED

Only one Temporary Dwelling is allowed per legally platted lot. 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 Temporary Dwelling Permit must be obtained before the installation of a Temporary Dwelling on a legally platted lot and before human habitation of a Temporary Dwelling for any length of time, i.e. intermittent occupancy or permanent residency. An unoccupied RV may be stored on a legally platted lot without a permit.

A Temporary Dwelling must be connected to a septic system or be self-contained. An inspection by the Local Health Department regarding sewage disposal may be required. 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. New owners of a lot that has a legally permitted Temporary Dwelling installed by previous owners must apply for a new Temporary Dwelling Permit in their own name or decommission the Temporary Dwelling as provided for in this Chapter. Granting of a new Temporary Dwelling Permit under the new owner's name shall not be unreasonably withheld so long as it complies with all Town Land Use Regulations in effect at the time.

4.12 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.

4.13 TEMPORARY DWELLING DECOMMISSIONING

One Temporary Dwelling may be located on a legally platted lot with a new Dwelling under construction, along with a Decommissioning Contract. A Temporary Dwelling must be decommissioned no later than thirty (30) days after the occupancy of a new permanent Dwelling on a legally platted 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.

4.14 SOLAR ENERGY SYSTEMS

The purposes of this section is to allow and encourage solar energy systems in conjunction with residential and agricultural uses on a lot, to promote reduced dependence on nonrenewable energy sources, and to design solar energy systems in a manner that minimizes visual impacts on adjacent properties and that are not detrimental to public health, safety and welfare.

4.14.1 General Design Standards

1. All solar energy systems shall comply with set back requirements in section 5.2 of this ordinance.
2. To the maximum extent feasible, ancillary solar equipment shall be located inside a building or screened from public view. Solar energy system appurtenances shall be screened without compromising the effectiveness of the solar collectors to the extent reasonably feasible.
3. The applicant shall demonstrate that the height, location, setback or base elevation of a solar energy system minimizes potential glare and visual impacts of the system on adjacent properties without compromising the effectiveness of the solar collectors to the extent reasonably feasible.
4. Any solar energy system that has been determined to be unsafe by the Grand County Building Inspector, shall be subject to Section 115 (Unsafe Structures and Equipment) of the International Building Code, which may require the panels or modules and associated equipment to be removed, or the unsafe condition otherwise mitigated if it is determined to be unsafe. If it is determined by the Grand County Building Inspector that the unsafe condition of the panels or modules and/or associated equipment cannot be mitigated, then they shall be promptly removed from the property to a place of safe and legal disposal, after which the site and/or building, as applicable, must be returned to its preexisting condition.
5. All building-mounted or roof-mounted solar energy system permits (routine and nonroutine) shall only be approved for systems that will be mounted on an existing building or in conjunction with an approved building permit for the building on which the system will be mounted.
6. For routine ground-mounted or pole-mounted solar energy system permits, the vertical distance between the highest point of any panel or module (at its maximum design tilt) to finished grade or slab on grade directly below, shall not exceed twelve (12) feet.
7. For routine and nonroutine building-mounted or roof-mounted solar energy system permits, the vertical distance between the highest point of any panel or module (at its maximum design tilt) to the roof directly below, shall not exceed one (1) foot, unless roof pitch is 3:12 or less, in such case up to two (2) feet is permitted. No portion of a solar energy system shall project above the maximum allowed building height of 25 feet as measured on a vertical axis from the highest point of the system to the lower of either 1) the lowest point where the vertical face (or a vertical line extending directly below the vertical face) around the perimeter of the building intersects the Existing Grade or 2) the lowest point where the vertical face (or a vertical line extending directly below the vertical face) around the perimeter of the building intersects the Finished Grade.
8. Applicants must submit approval of an interconnection agreement from the local electric utility company in order to gain Town approval on systems that will be interconnected to the Town's electrical infrastructure

9. The total combined kilowatts for all routine permitted solar energy systems shall not exceed 10 kilowatts per legally platted lot.
10. Storage facilities that require a building permit to store battery backup and ancillary equipment for a solar energy system (routine and nonroutine), must receive a building permit for the building in which said equipment will be stored before final approval of the solar energy system is granted.

4.14.2 Nonroutine Solar Energy System Permits

Applicants may apply for approval of a solar energy system that exceeds the maximum allowed height and kilowatts in section 4.15.1 through a nonroutine solar energy system permit application. The Land Use Authority shall ask applicants to demonstrate that a system taller than twelve (12) feet in height is needed in order to prevent compromising the effectiveness or safety of the solar collectors. Applicants must also demonstrate that a system larger than 10 kilowatts is needed by listing intended uses of the electricity generated from the proposed system. The Planning and Land Use Commission shall act as the Land Use Authority for such applications and shall require a design review of nonroutine solar energy systems in order to minimize visual impacts on adjacent properties and ensure public health, safety and welfare.

1. In reviewing an application, the Land Use Authority shall identify the potential negative effects of the proposed system such as, but not limited to, potential glare and visual impacts on adjacent properties, and may require additional screening, placement and design layout without compromising the effectiveness of the solar collectors to the extent reasonably feasible.
2. The Land Use Authority may require an engineering assessment from the local electric utility company or a Town approved expert to assess the proposed system and its compatibility with the Town's existing electrical infrastructure to ensure public health, safety and welfare. Based on this assessment, additional requirements may be imposed, and Town approval may be contingent upon the Applicant being responsible for the cost to upgrade the Town's electrical infrastructure to ensure that it will not compromise the safety, reliability and operability of the Town's utility infrastructure or place other residents' electrical equipment at risk.
3. The total combined kilowatts for all permitted solar energy systems shall not exceed 25 kilowatts per legally platted lot.
4. For nonroutine ground-mounted or pole-mounted solar energy system permits, the vertical distance between the highest points of any panel or module (at its maximum design tilt) to finished grade or slab on grade directly below, shall not exceed nineteen (19) feet.
5. The total combined square footage of all ground-mounted or pole-mounted photovoltaic panels or modules shall not exceed 1500 square feet per legally platted lot.

4.15 ADDITIONAL KITCHENS EXCEEDING ONE KITCHEN PER LEGALLY PERMITTED DWELLING UNIT

Conditional Use Permits for Kitchens exceeding one Kitchen per legally permitted Dwelling Unit shall be deemed Nonroutine. The purpose of this section is to allow lot owners to have additional Kitchens in Accessory Structures, such as canning Kitchens or Kitchens that are part of a home-based business, while protecting the Town's residential and rural character and prevent Short-term Rentals, multiple dwellings, duplexes, and mother-in-law apartments beyond one Kitchen per legally permitted Dwelling Unit.

Additional Kitchens that are used as part of a premise's occupation Conditional Use Permit shall also follow the provisions as further provided for in Section 4.8 of this Land Use Ordinance. Property owners may have additional Kitchens (as defined by this Land Use Ordinance) per legally permitted Dwelling Unit through a nonpermanent Conditional Use Permit provided that the Kitchen: does not create more than one Kitchen per Accessory Structure; does not create a second Dwelling as defined by this Land Use Ordinance; and is never used as part of an illegal Short-term Rental. If any of said instances occur, the nonpermanent Conditional Use Permit may be revoked or denied annual renewal, and removal of the Kitchen will be required. This may include removal of some of the fixtures, facilities, or plumbing that are part of what defines a Kitchen in this Land Use Ordinance such as the removal of circuits, or abandonment of both ends of the circuit, and gas line stubs used for cooking facilities, all the way to the attic or the crawl space. Conditional Use Permit applicants for additional Kitchens are required to sign a statement of intended use, and a guarantee that the Kitchen will never be used as part of an illegal detached Dwelling or Short-term Rental.

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

The Land Use Authority may require an applicant to submit a topographical drawing prepared by a registered land surveyor or civil engineer identifying all property lines, road easements and required setbacks if deemed necessary to verify that the setback requirements in this section are met.

A. For all buildings, including municipal buildings, water wells, solar energy systems and other alternative energy structures, above ground water cisterns, above ground metal shipping containers, portable sheds, and septic systems, setbacks shall be fifty (50) feet from a platted public street easement line.

B. The setbacks for solar energy systems and other alternative energy structures, above-ground water cisterns, above-ground metal shipping containers, portable sheds, and all buildings (except for those listed in subsection E below), 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, sheds, and other Accessory Structures 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 legally platted lot shall not exceed 7,000 square feet.

B. The combined square footage of all municipal buildings located on a legally platted 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 legally platted 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 legally platted lot are included in the maximum combined square footage except one or two Accessory Structures as provided in section G.

G. No more than two Accessory Structures on a legally platted 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 legally platted 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 SINGLE-FAMILY DWELLING PER PLATTED LOT

Repeated Town surveys regarding owners' and residents' preferences have continually supported limiting the number of Dwellings per lot and protecting the Town's rural character and drinking water quality. The purpose of limiting the number of Dwellings per legally platted lot is to protect the Town's drinking water supply by reducing septic density and to protect the rural character and sense of open space in the Town.

Only one (1) Single-family Dwelling which contains one (1) Dwelling Unit and one (1) Internal Accessory Dwelling Unit as defined in this Land Use Ordinance 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 Chapter 4 of this Land Use Ordinance, may also be located on a legally platted lot in the Town of Castle Valley along with one (1) Dwelling. One Temporary Dwelling may be located on a legally platted lot with a new Dwelling under construction, along with a Decommissioning Contract, as provided for in Chapter 4 of this Land Use Ordinance. A new Dwelling may be constructed on a legally platted lot already containing an existing Dwelling along with a Decommissioning Contract, as provided for in Chapter 5 of this Land Use Ordinance.

Residing in additional structures, such as but not limited to, Temporary Dwellings and other temporary structures that cannot be given building permits such as Yurts and Teepees, are not permitted if another structure is being used as a residence. Only one structure is allowed per legally platted lot that contains all of the following: facilities for living/sleeping, food preparation, bathing and sanitation (toilet, sink, and approved wastewater disposal system). Yurts, teepees and other temporary structures that cannot be given building permits are considered Dwellings if used and occupied as a residence. Only one Kitchen as defined by this Land Use Ordinance is allowed per legally permitted Dwelling Unit. Additional Kitchens may be allowed in an Accessory Structure through an approved Conditional Use Permit. The intent of the regulations in this section is to prevent guest houses, apartments, duplexes, mother-in-law apartments, or other construction creating more than one Dwelling per legally platted lot and to prevent Short-term Rentals, all of which 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). A Lot Line Adjustment (Boundary Adjustment) that does not create a new additional lot is not a Lot Division, and therefore does not require review or approval by the Town Council pursuant to sections 10-9a-523 and 10-9a-524, et seq., UCA. Combining two or more legally platted lots into one legally platted lot requires review and approval from the Town Council and shall not be allowed if it makes a property noncompliant with any Town Land Use Regulations such as the maximum square footage limit per legally platted lot. Property owners are required to give the Town notice after any Boundary Adjustment has occurred along with a copy of any surveys performed.

5.7 ALL BUILDINGS MUST BE PERMITTED

The Building Permit Agent or the Planning and Land Use Commission shall not issue Town Approval for any building permit to construct, repair, reconstruct or alter any building, or to move any building onto a lot unless it fully conforms to all Town Land Use Regulations in effect at the time of application.

A. All buildings constructed in, reconstructed in, altered in, or moved into the Town, whether for Dwelling or accessory use including metal shipping containers and portable sheds, 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 Designated Land Use Authority and, if required, a permit from the Grand County Building Inspector before commencing the construction or moving process.

B. Grade Reviews by the Building Permit Agent must be completed prior to commencing any human-made cuts, fills, excavation, grading or similar earth-moving process to prepare any building site, septic system and associated plumbing, pad, foundation, driveway or removal of a structure. This includes earth-moving processes to prepare pads (dirt or concrete) used for permanent or temporary structures. Additional Grade Reviews are required prior to each new earth-moving process, even if a previous Grade Review was completed on a different area of the lot.

A Grade Review shall determine and establish existing grade prior to earth-moving processes used to prepare a site for future construction or moving a structure on to a lot. For sites that have never been disturbed, existing grade shall be the same as natural grade which is the elevation of the surface of the ground created through the actions of natural forces that have not resulted from human-made earth-moving processes.

When existing structures or older disturbances to the land make natural grade indistinguishable from existing grade, existing grade shall be the ground level established when the existing structure or disturbance was created. Recent or new earth-moving will not necessarily qualify as existing grade and will require a determination from the Building Permit Agent as part of the Grade Review. If necessary, the Building Permit Agent may require an estimation of pre-development topography prepared by a registered land surveyor or civil engineer to make a determination of existing grade.

C. Drainage Reviews must be completed in order to obtain Town approval for a Building Permit Application. A Drainage Review shall ensure that no changes are made to any wash, drainage or waterway on the lot in a way that affects the exit point from the lot of the surface water or the concentration of discharge at that point. Drainage Reviews expire in 12 months. If a Drainage Review occurs more than 12 months prior to a complete Building Permit Application being submitted, a new Drainage Review shall be required prior to Town approval.

D. While Grade Reviews and Drainage Reviews are not required prior to earth-moving work performed in landscaping or gardening, property owners are encouraged to have these reviews to establish existing grade. Pursuant to Town Ordinance 95-6, it is not permitted to alter the exit point from the lot of surface water or the concentration of discharge at that point.

E. 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.

F. All applications for a Town Land Use Decision shall follow the Town Building Permit Process as provided in Ordinance 95-6. Land use approval shall not be issued for a building or other Land Use Application that does not comply with all applicable Town Land Use Regulations.

G. 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.

H. 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 Town Land Use Regulations. No such building shall be constructed or moved into the Town until a certificate of land use compliance has been obtained from the Designated Town Land Use Authority.

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 currently adopted codes and amendments under the Utah State Rule 156-56 of the Utah Uniform Building Standards Act regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures. 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 shall be placed by the Planning and Land Use Commission through nonroutine decommissioning contracts to affect the decommissioning of the existing Dwelling and conversion to an Accessory Structure. These conditions may include: removal of some of the fixtures, facilities, and plumbing that are part of what defines a Dwelling Unit in this land use ordinance such as the removal of circuits, or abandonment of both ends of the circuit, and gas line stubs used for cooking facilities, all the way to the attic or the crawl space; a statement of the intended new use; and guarantee that the building will never be used as a Dwelling regardless of length of time of occupancy. Decommissioning must occur within thirty (30) days after occupancy of the new Dwelling.

5.10 INTERNAL ACCESSORY DWELLING UNIT (IADU)

One Internal Accessory Dwelling Unit is allowed within the building footprint of the Primary Dwelling. Each IADU shall require a permit with annual renewal, regardless of intended use. The IADU Permit is non-transferable and terminates upon sale of the property. New owners of a lot with a previously permitted IADU installed must apply for a new IADU Permit in their own name or decommission the IADU kitchen as provided for in this Section. Reinstating a previously decommissioned IADU shall require a new IADU Permit application.

5.10.1 Prohibitions

- A. Rental of the IADU is strictly prohibited if the owner of record of the Primary Dwelling is not a full-time resident within that Dwelling.
- B. IADUs, if rented, shall not be rented for a period of less than 30 days.
- C. IADUs are prohibited in detached structures.
- D. IADUs are prohibited within mobile homes.

5.10.2 Requirements

- A. IADU Application, on the form maintained by the Town.
- B. IADU Application fee.
- C. Verification that the property owner of record occupies the Primary Dwelling as their Primary Residence, as recognized by the Grand County Assessor in the public record Grand County Tax Information.
- D. An IADU or any space within the Dwelling that is modified as part of installation of an IADU must be compliant with current Building Codes, including but not limited to egress window requirements. This is to ensure the health and safety of all occupants of the building.
- E. Septic inspection and approval by Southeast Utah Health Department to ensure the septic system is adequate for the proposed use.
- F. Notice of the approved Internal Accessory Dwelling Unit, including Decommissioning Contract, signed by all of the property owners of the subject property and their signatures notarized, shall be recorded by the Town with the Grand County Recorder. The notice shall include: a description of the Primary Dwelling; a statement that the Primary Dwelling contains an Internal Accessory Dwelling Unit; and a statement that the Internal Accessory Dwelling Unit may only be used in accordance with the Town's land use regulations. Upon recording the notice, the Town shall deliver a copy of the notice to the owner of the IADU.

5.10.3 Internal Accessory Dwelling Unit Review Procedure

The decision to approve or deny an IADU application is administrative. Within a reasonable amount of time after the applicant submits a complete IADU application, the Town shall approve the IADU application if it complies with the requirements of this Section 5.10 and all applicable building, health, and fire codes.

5.10.4 Renewal of Permits

The owner of the property on which the IADU is located shall submit an IADU renewal application annually to ensure legal compliance. Within a reasonable amount of time after the applicant submits a complete IADU renewal application, the Town shall approve the IADU renewal application if it complies with the requirements of this Section 5.10. The Town may deny the IADU renewal application in the event the Town determined the owner violated Section 5.10.1(B) or if the owner has failed to cure

any other violation of this Section 5.10 after notice pursuant to Section 5.10.6. In the event of denial of an IADU renewal application, the owner of the lot on which the IADU is located shall decommission the IADU pursuant to Section 5.10.5

5.10.5 Internal Accessory Dwelling Unit Decommissioning

A. The IADU must be decommissioned no later than thirty (30) days after revocation or cancellation of the IADU Permit.

B. Decommissioning the IADU shall consist of removal of some of the fixtures, facilities, or plumbing that are part of what defines a Dwelling Unit in this Land Use Ordinance, such as the removal of circuits, or abandonment of both ends of the circuit, and gas line stubs used for cooking facilities, all the way to the attic or the crawl space.

5.10.6 Enforcement of IADUs

In the case of a suspected violation with respect to an IADU, the following procedures shall be followed. These procedures are in accordance with Section 10-9a-530, Utah Code Annotated 1953 ("Utah Code").

A. Upon learning of a suspected violation, the Town shall provide a written notice of suspected violation ("Notice"). The Notice shall:

1. Be mailed to the owner of record and any other individual designated on the IADU permit to receive notice and posted at the property with the suspected violation;
2. Describe the specific violation;
3. Provide the owner of the IADU thirty (30) days from the day on which the Town issues the Notice to file a written objection or to cure the violation, except in the case of a violation relating to an illegal Short-term Rental or for any issue relating to health or safety. In the case of a suspected violation relating to an illegal Short-term Rental or for any health or safety issue, the Notice shall specify that the suspected activity or use as an IADU must immediately cease and desist;
4. Provide the name and address of the Town office where the owner may file a written objection to the Notice;
5. State that if the owner fails to cure the violation within 30 days of the issuance of the Notice, or fails to cure the violation immediately if the Notice specifies a suspected violation relating to an illegal Short-term Rental or for any health or safety issue, the Town may hold a lien against the property in an amount up to \$100 per day, for each day of the violation after the expiration of the 30-day cure period;
6. The Town shall record a copy of the Notice with the Grand County Recorder.

B. If the owner cures the suspected violation to the satisfaction of the Town within the 30-day cure period, or immediately in the case of a suspected violation relating to an illegal Short-term Rental or for any health or safety issue, the Town will not hold a lien against the property nor impose any fees or fines upon the owner with respect to the suspected violation specified in the Notice.

C. The owner may file a written objection to the suspected violation within 14 days of the postmark on the Notice or the date the Notice is posted on the owner's property.

D. If the owner files a written objection within the specified timeframe and it is received at the designated Town address, the Town Council shall hold a hearing open to the public in order to determine whether the suspected violation described in the Notice has occurred. The Town shall provide the owner with the date, time, and location of the hearing at least 14 days prior to the date of the hearing.

E. If the Town Council determines at the hearing that the suspected violation identified in the Notice has occurred, the Town may impose a lien in the amount of \$100 per day for each day of the violation after either (1) the expiration of the 30-day cure period specified in 5.10.6.A.3 above, regardless of whether the hearing was held after the 30-cure period had expired or (2) the next day after the issuance of the Notice in the case of a suspected violation relating to an illegal Short-term Rental or for any health or safety issue. The Town may impose such lien each day until the violation is cured to the satisfaction of the Town.

F. If the Town Council determines at the hearing that the suspected violation identified in the Notice has not occurred, the Town will not hold lien against the property nor impose any fees or fines upon the owner with respect to the suspected violation specified in the Notice.

CHAPTER 6 NONCOMPLYING BUILDINGS AND NONCONFORMING USES

6.1 NONCOMPLYING BUILDINGS

A building that legally existed before its current Land Use designation, but which does not currently meet the requirements 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:

- E. 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
- F. 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 and Appeal Hearing Officer requirements shall follow the provisions as further provided for in Ordinance 2006-3.

7.1 VARIANCE

Variances are intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of Town Land Use Regulations that create unreasonable hardships. When such hardships are more appropriately remedied, if at all, pursuant to other provisions of Town Land Use Regulations, the Variance procedure is inappropriate. Property owners considering a Variance shall consult with the Town prior to such an application in order to clarify the Town's Land Use Ordinances and other possible remedies.

7.1.1 Parties Entitled to Seek Variances

Any person or entity desiring a waiver or modification of the requirements of Town 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 for a Variance from the terms of Town Land Use Ordinances.

7.1.2 Authority for Variance

The Variance and Appeal Hearing Officer (the "Officer"), in accordance with the procedures, standards and limitations of this Chapter and as further provided for in Ordinance 2006-3, shall approve, approve with conditions or disapprove an application for a Variance after receiving a recommendation from the Town.

7.1.3 Standards for Variance

1. The Officer may grant a Variance only if each of the following conditions are met:
 - a. Literal enforcement of Town Land Use Ordinances would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purposes of Town 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 Town Land Use Ordinances are observed and substantial justice is done.
2. In determining whether or not enforcement of Town Land Use Ordinances would cause unreasonable hardship under this section, the Officer 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 Officer 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 Officer shall not grant a Variance that:
 - a. Is intended as a temporary measure only;
 - b. Is greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant; or
 - c. Authorizes uses not allowed by law (i.e., a "use variance").
7. In granting a Variance, the Officer may impose additional requirements on the applicant that will:
 - a. Mitigate any harmful effects of the Variance; or
 - b. Serve the purpose of the standard or requirement that is waived or modified.
8. The Officer shall decide all Variance Applications and other issues brought before it within a reasonable time. Decision on a Variance Application is final when the Officer 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.

7.1.4 Submittal Requirements for Variance Applications

The Applicant of a Variance shall file a Town Variance Application with the Planning and Land Use Commission Clerk. Variance Applications shall only be accepted after a complete application has been submitted, along with all submittal requirements and all fees paid. The Town Planning and Land Use Clerk shall certify the completeness of the Variance Application or reject the same, in a timely manner. A complete Variance Application shall include the following items and information unless determined inapplicable by the Planning and Land Use Clerk:

1. Written Information:

- a. The property owner's name and address and the owner's signed consent to the filing of the Application;
- b. The Applicant's name and address, if different than the owner, and the Applicant's interest in the subject property;
- c. The names and addresses of all professional consultants, if any, advising the Applicant with respect to the Application; and
- d. Street address and legal description of the subject property.

2. Graphic Information:

- a. A site plan drawn to scale identifying all property lines, existing and proposed structures, fences, road easements, setbacks and their respective distances from the property lines;
- b. An elevation drawing to scale showing all elevations of proposed structures with existing grade and finished grade shown and labeled;
- c. A topographical drawing prepared, prior to any earth-moving, by a registered land surveyor or civil engineer identifying all items listed in Subsection 2.a and 2.b of this Section. The existing grade shall be shown in dashed lines at two foot (2') intervals and the proposed finished grade shall be shown in solid lines at two foot (2') intervals; and
- d. A Town Grade Review signed by the Building Permit Agent prior to any earth-moving to determine existing grade.

3. Variance Information:

- a. The specific feature or features of the proposed use, construction or development that require a Variance;
- b. The specific provision of Town Land Use Ordinances from which the Variance is sought and the precise Variance being sought;
- c. A statement of the characteristics of the subject property that prevent compliance with the provisions of Town Land Use Ordinances and result in unnecessary hardship;
- d. A statement of the minimum variation of the provisions of Town Land Use Ordinances that would be necessary to permit the proposed use, construction or development; and
- e. An explanation of how the Variance Application satisfies each standard for Variances set forth in this Chapter; and any other information identified by the Planning and Land Use Commission Clerk to be pertinent to the requested Variance.

4. Fees

A filing fee to cover the cost of review in accordance with the fee schedule adopted by resolution of the Town Council. The Applicant shall also be responsible for payment of all fees established for providing the public notices required by this Chapter.

7.1.5 Procedures for Variance Applications

Noticing and posting requirements shall be met as specified in this Chapter and in accordance with the Utah Open and Public Meetings Act.

1. Town Recommendation

Upon receipt of a complete application for a Variance, the Planning and Land Use Commission (Commission) shall review and make a recommendation to the Town Council who shall review the application and make a recommendation to the Variance and Appeal Hearing Officer (the "Officer"). Variance Applicants, or their representatives, must attend both the Commission and Town Council meetings at which the Variance request will be reviewed.

Upon completion of a Town recommendation, but before a public hearing, the Town Clerk shall forthwith transmit to the Officer the Town recommendation along with the complete Variance Application and all required items and information listed in section 7.1.4 of this Chapter.

2. Notice of Town Review of Variance Applications to Neighbors

To allow neighbors time to respond to a Variance request, an Applicant must submit the Variance Application to the Town thirty (30) days before the meeting at which the Variance request will first be reviewed by the Commission. The Town shall send notice, including, if practical, a copy of the Variance Application describing the proposal to the Parties of Interest at least fourteen (14) days prior to the Commission's meeting at which the Variance Application will first be reviewed. Parties of Interest include the lot owner of each parcel of property abutting the property upon which the Variance is to be located and anyone else who has submitted a written request to be notified of the decision.

3. Public Hearing Required for Variance Applications

A public hearing shall be held at the Town Community Building on a Variance Application after a recommendation has been made by the Town as required by this Chapter. At the public hearing the Officer shall consider the Application, the recommendation of the Town, the relevant support materials and the public testimony given at the public hearing. After the close of the public hearing, the Officer shall approve, approve with conditions or disapprove the Application for a Variance within a reasonable time. The Town shall approve procedures and policies that govern the conduct of the public hearing in accordance with Section 5 of Ordinance 2006-3, as amended.

4. Notice of Public Hearing for Variance Applications

Before a public hearing for an Application for a Variance is held by the Officer, the Officer shall give notice to the Town and the Applicant at least fourteen (14) days prior to the hearing stating the time, place and purpose of the hearing. The Town shall send notice, including, if practical, the recommendation made by the Town to the Parties of Interest, at least ten (10) days prior to the Public Hearing stating the time, place and purpose of the hearing. The public hearing shall be noticed to the public in accordance with the Open and Public Meetings Act (Section 52-4-101, *et seq.*, as amended).

7.1.6 Notice of Final Decision for Variance Applications

The Officer shall give written notice of all final decisions and rulings for a Variance to the Town, the Variance Applicant, and other Parties of Interest within ten (10) business days after such a final decision is made.

7.1.7 Records of Proceedings and Final Decision

The Town Clerk shall file a hard copy, marked as final with adoption date, of the final decision along with all other records of meetings or hearings held by the Officer, including written minutes, rulings, and other associated documents, in the Town Records for review and access by the public subject to the provisions of the Government Records Access Management Act, Section 63G-2-101, *et seq.*, UCA, as amended.

7.1.8 Variance Less than Requested

A Variance less than or different than that requested may be authorized when the record supports the applicant's right to some relief but not to the relief requested.

7.1.9 Conditions for Variance

The Town may recommend, and the Officer may impose such conditions regarding the location, character and other features of the proposed structure on a Variance Application that are deemed necessary to accomplish the purposes of Town Land Use Ordinances and the Town's General Plan, to prevent or minimize adverse impacts upon the public and neighbors and to ensure compatibility. These conditions shall be expressly set forth in the Variance and Appeal Hearing Officer's decision granting the Variance. Violation of any condition or limitation on the grant of a Variance shall be a violation of this Land Use Ordinance and shall constitute grounds for revocation of the Variance by the Town.

7.1.10 Effect of Variance

Issuance of a Variance shall authorize only the particular variation that is approved in the Variance Decision.

7.1.11 Time Limit for Variance

Subject to an extension of time granted upon application to the Town and unless otherwise specified in the Variance Decision, no variance shall be valid for a period longer than one year unless approval is granted by the Town on a building permit and the Applicant has submitted a complete building permit to the Grand County Building Department within that period. The Town may grant an extension of a Variance for up to one additional year when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact and the permit has yet to be approved by the Grand County Building Department. Extension requests must be submitted prior to the expiration of the Variance. Permitted time frames do not change with successive owners.

7.1.12 Appeal of Variance Decision

Any person adversely affected by a final decision made by the Variance and Appeal Hearing Officer may file a petition for review of the decision with the district court within thirty (30) days after the decision is rendered.

7.2 APPEALS OF LAND USE DECISIONS

7.2.1 Administrative Appeals. Any person adversely affected by the Land Use Authority's application of a Town Land Use Regulation to a particular Land Use Application shall first appeal said decision to the Officer. Legislative Decisions related to the enactment or amendment to Town Ordinances, Land Use Regulations, General Plans, and Zoning Maps shall be appealed directly to the Grand County District Court pursuant to Section 10-9a-801 (5), *et seq.*, UCA.

7.2.2 Appeal Authority. The Planning and Use Commission ("the "Commission") and the Officer shall have the powers and be subject to the limitations contained in Ordinance 2006-3 and Chapter 3 of this Land Use Ordinance..

7.2.3 Applications for Appeal.

1. Routine Designations. Any person who claims that the Building Permit Agent made an erroneous determination regarding whether an application qualifies as a Routine Application, as defined in Section 1.6 and as specified in Ordinance 85-3 ("Routine Designation") shall appeal said Routine Designation to the Commission. Such Appeal shall be filed in writing with the Town Clerk setting forth the reasons for appeal within 15 calendar days of the date of the Building Permit Agent's written Routine Designation. An appeal fee, as established by Resolution 2013-1 as amended, must accompany the appeal. If, upon appeal, the Commission determines that the Land Use Application is routine, it shall remand the Land Use Application to the Building Permit Agent for processing. If the Commission determines that the Land Use Application is nonroutine, the Designated Land Use Authority may review and issue a Land Use Decision on the nonroutine Land Use Application.

2. Land Use Application Fees. Any person who claims a Land Use Application fee exceeds the reasonable cost of processing the application, issuing the permit, or other services rendered shall appeal said fee to the Officer. Such Appeal shall be filed in writing with the Town Clerk setting forth the reasons for the appeal within 15 calendar days of the date the fee is assessed. An appeal fee, as established by Resolution 2013-1 as amended, must accompany the appeal. The Town shall return the appeal fee to the Appellant if the Officer determines the Land Use Application fee is unreasonable under Section 10-9a-510, UCA. On appeal, the Officer shall deem Land Use Application fees as presumptively reasonable. It shall be the Appellant's burden to prove that a Land Use Application fee is clearly disproportional to the cost of processing the application, issuing the permit, or other services rendered, including all staff, consultant and attorney review.

3. Land Use Decisions. Any persons, including any officer or body of the Town, adversely affected by any other Land Use Decisions, including the grant or refusal of a building permit, shall first appeal the Land Use Decision to the Officer. An appeal must be made within thirty (30) calendar days of the date of the Land Use Decision by filing with the Town Clerk: 1) a written notice of appeal stating in detailed specificity the decision being appealed and the grounds thereof, including the alleged error(s) made by the Land Use Authority and every theory of relief that can be raised in district court; and 2) fees established by Resolution 2013-1, as amended (collectively the "Appeal"). Appeals shall only be accepted in which final action of the Land Use Authority has been made, as evidenced by issuance or denial of a Land Use Application Permit or other final written Land Use Decision. The Town Clerk shall certify the completeness and timeliness of the Appeal or reject the same, in a timely manner. Upon the Town Clerk's certification of the Appeal, the Town Clerk shall forthwith transmit the "Record," as

defined below, to the Officer.

4. The Record shall consist of all those documents and papers filed by the Land Use Applicant with the Land Use Authority; all correspondence between the Town and the Land Use Applicant; all documents, papers, and correspondence received from the public or adversely affected persons or entities; transcripts of all public meetings; the Land Use Regulations; all such Land Use Decisions or transcripts thereof; and the notice of appeal. By mutual agreement of the Parties, the Record may include a “Brief of the Issues,” submitted by the Parties and directed to the Officer. The Record shall not include any documentation, papers, or correspondence from the Town, the Applicant, or an adversely affect person or entity dated or prepared after the date of the Land Use Decision, or any other evidence outside of the Record. In the event there is no written Record, the Officer may call witnesses and take evidence.

5. An appeal is not subject to de novo review, and the Officer shall defer to the Town’s determination of factual matters where the Record includes substantial evidence for each of the Town’s findings of fact.

6. The Officer shall review the Record under the “Clearly Erroneous” standard, and it shall be the appellant’s burden to prove the Land Use Authority erred. If the Land Use Decision is reasonable in light of the entire Record, the Officer may not reverse it, even if the Officer would have weighed the evidence differently.

7. When reviewing the reasonableness of the Land Use Decision, the Officer shall apply the plain meaning of the Land Use Regulations. If the meaning of a Land Use Regulation is ambiguous, it shall be interpreted in the light most favorable to the Land Use Applicant.

8. The Officer, with the mutual agreement of the Parties, may rule on the Record alone or may fix the date and time for a hearing within a reasonable time. In the event the parties proceed to a hearing, the Officer shall give the Parties and the public notice thereof. All meetings and hearings held by the Officer shall be considered public meetings and shall be properly noticed and held in accordance with the Utah Open and Public Meetings Act, and no later than ten (10) business days prior to the hearing stating the time, place, and purpose of the meeting. All meetings and hearings by the Officer shall be held at the Town Community Building unless the Officer determines that an alternate location better meets the purposes and need of the meeting or hearing. All records of meetings or hearings held by the Officer, including written minutes, final decisions and rulings, and associated documents shall be filed by the Town Clerk in the Town Records for review and access by the public subject to the provisions of the Government Records Access Management Act, Section 63G-2-101, *et seq.*, UCA, as amended.

9. Proceedings and hearings before the Officer shall be pursuant to rules adopted by the Town and in conformance with general principles of due process; provided, however, the rules of evidence need not apply. Any party in interest may appear at such hearing in person, by agent, or by an attorney of his/her choice.

10. Appellants may always reapply to the applicable Land Use Authority if they have new information that might change the previously-issued Land Use Decision. Further, appeals shall consider and decide the reasonableness of the Town’s application of a Land Use Regulation to a particular Land Use Application on a case-by-case basis.

11. Appeals may not be used to waive or modify the terms, requirements, or text of the Town's ordinances or Land Use Regulations.

12. The Officer shall decide all appeals and other issues brought before it within a reasonable time. Decision on an appeal is final when the Officer 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 of Law" based on Town Land Use Regulations or other law, rule or regulation relied on; and the "Ruling" setting forth the Ruling of the Officer.

13. In exercising the above-mentioned powers, the Officer may affirm, wholly or partly, or may modify the order, requirement, decision or determination of a Land Use Authority consistent with Town Land Use Regulations and other applicable laws.

14. In the event the Officer upholds the Land Use Decision, the Applicant shall pay to the Town all of its costs and expenses incurred as a result of the appeal of the Land Use Decision, including reasonable attorneys' fees and costs. Further, in the event the Applicant appeals the Officer's Ruling to the Grand County District Court, and if the Court upholds the Officer's Ruling, the Applicant shall further pay to the Town all of its costs and expenses incurred as a result of the appeal of the Officer's Ruling, including reasonable attorneys' fees and costs.

7.2.4 Stay of Final Decision of Land Use Authority Pending Appeal

An appeal to the Officer hereunder shall not stay proceedings taken in furtherance of the action appealed from unless such proceedings are specifically stayed by order of the Land Use Authority. An appellant may request a stay by submitting to the Land Use Authority, in writing, an application for a stay setting forth the reasons why a stay is necessary to protect against imminent harm. In determining whether or not to grant a stay, the Land Use Authority shall assure that all potentially affected parties are given the opportunity to comment on the request. A ruling on the request for a stay shall be given within five (5) days from the date the request is received by the Land Use Authority. The Land Use Authority, in granting a stay, may impose additional conditions to mitigate any potential harm that may be caused by the stay, including requiring the appellant to post a cash escrow financial guarantee. Within ten (10) days of the Land Use Authority's decision regarding the grant or denial of a stay, any aggrieved party may appeal the decision to the Officer, whose decision shall be final.

7.2.5 Notice to Council of Meeting or Hearing for Appeal of a Land Use Decision

Before an appeal of a Land Use Decision is heard by the Officer, the Officer shall give notice to the Town, the Appellant, and other Parties of Interest at least ten (10) business days prior to the meeting or hearing stating the time, place and purpose of the meeting or hearing. Parties of Interest include anyone else who has submitted a written request to be notified of the decision.

7.2.6 Notice of Final Decision for Appeal of a Land Use Decision

The Officer shall give written notice of all final decisions and rulings for an appeal of a Land Use Decision to the Town, the Appellant, and other parties of interest within ten (10) business days after such a final decision is made. The Town Clerk shall file a hard copy, marked as final with adoption date, in the Town Records for review and access by the public subject to the provisions of the Government Records Access Management Act, Section 63G-2-101, *et seq.*, UCA, as amended.

7.2.7 Time Limitation

The Officer shall dismiss all appeals not heard or decided within one hundred eighty (180) days of filing of the appeal due to the Appellant's failure to proceed or prosecute. In such an event, the Officer shall first provide 10 days' advanced written notice of Intent to Dismiss to the Appellant, and a subsequent written ruling of dismissal.

7.3 DISTRICT COURT REVIEW

1. Any person adversely affected by any final decision of the Appeal Authority, including Variance Decisions or legislative decision of the Town Council may Petition for Review with the District Court in accordance with section 10-9a-801, et seq., UCA, as amended.
2. A Petition for Review of a Land Use Decision may be heard by the District Court only after the appellant has exhausted his administrative remedies described above and only if the Petition for Review is filed with the District Court within thirty (30) days of the date of a final decision of the Appeal Authority.
3. A Petition for Review of a legislative decision shall be filed within thirty (30) days of Town Council's enactment of an ordinance, Land Use Regulation, Zoning Map, or General Plan that is compliant with Section 10-9a-205, UCA.
4. Upon receipt of Notice of a Petition for Review, the Appeal Authority or Town Council shall transmit the Record to the District Court which shall include minutes, findings, orders, and transcript of the appeal proceedings, if any. If the proceeding was taped, a transcript of that tape recording shall constitute a true and correct transcript for purposes of this subsection. The cost of preparing the transcript shall be paid by the appellant prior to transmittal of the record to the Court.
5. The District Court's review is limited to the Record provided by the Appeal Authority or Town Council. The Court may not accept or consider any evidence outside the Record unless that evidence was offered to the Appeal Authority or Town Council and the Court determines that it was improperly excluded by the Appeal Authority or Town Council. In the event there is no record, the Court may call witnesses and take evidence.
6. The Court shall review all Land Use Decisions using the "substantial evidence" standard and shall uphold the Town's Land Use Decisions if the Record as a whole contains relevant evidence adequate to convince a reasonable mind to support the Land Use Decision. The Court shall review all legislative decisions using the "reasonably debatable" standard and shall uphold the Town's legislative decisions if the Record as a whole contains evidence that the decision could promote the general welfare, or is reasonably debatable that it is in the interest of the general welfare.
7. The filing of a Petition for Review does not stay the decision of the Appeal Authority or the Town Council. Either the Appellant or Respondent may petition the Appeal Authority to Stay a Land Use Decision, which petition the Appeal Authority may grant only if the Appeal Authority finds the stay is in the best interest of the Town. Either the Appellant or Respondent may petition the Court to Stay a legislative decision, which the Court may grant only if the Court finds the motioning party will suffer irreparable harm if the stay is not granted.

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 Structure 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, FEES, 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 and other Town Land Use Regulations 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 Designated Town Land Use Authority 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 Designated Town Land Use Authority. The Town may not issue approval for a building unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conforms to the provisions of Town Land Use Regulations then in effect.
- C. No license, building permit, or other Land Use Application 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 Town Land Use Regulations 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 Town Land Use Regulations. Any license or permit not in compliance with Town Land Use Regulations 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 Town Land Use Regulations 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. Notwithstanding the foregoing, any suspected violations relating to IADUs shall be administered in accordance with Section 5.10.6.
- F. Suspected violations relating to IADUs shall be administered in accordance with Section 5.10.6. In all other instances, when it is determined that there has been a violation of any provision of Town Land Use Regulations, 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 Land Use Regulation violations, refer to the section or sections of the land use ordinance violated;
- Determine and specify a time for compliance with relevant Land Use Regulations 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 FEES

- A. Reimbursement of costs and expenses by applicants.** The Town may require the applicant to pay all reasonable expenses incurred by the Town in processing or issuing a Land Use Application; in performing a review of any Land Use Application; in performing an inspection incidental to a Land Use Application; in determining compliance with Town Land Use Regulations; in interpreting Town Land Use Regulations; in processing and responding to appeals to a Land Use Decision, or in processing and responding to Variance applications. This list is not inclusive and shall be used by way of illustration of actions required by the Town that may incur fees from additional demands placed on Town services.
- B. Imposition of fees.** The Town Council may by resolution establish the fees to be imposed for, but not limited to, applications for any permit, permit renewal, Variance, zoning, lot line adjustment, appeal, other Land Use Decision, or action required by Town Land Use Regulations. The Town Council shall set fees for such applications to recover for the Town the reasonable expenses incurred in processing such applications or in performing any action required by Town Land Use Regulations. Any additional costs and expenses the Town may incur in order to review and report on any aspect of a Land Use Application or any aspect of a required action, Land Use Decision or provision of a Town Land Use Regulation, such as but not limited to, publication costs, recording fees, copying fees, mailing fees, inspection fees, legal fees, plan review costs or similar expenses shall be paid by the Land Use Applicant (Applicant) in addition to the fee collected with the application. If requested to do so by the Applicant, the Town shall procure an estimate of the cost of such information to the Applicant. Any fees collected shall be for the Town's administrative expenses in processing the application or for performing the required action, whether an application is granted or denied.
- C. Payment of expenses for professional services.** An Applicant shall pay for all fees and costs incurred by the Town to review a Land Use Application, including but not limited to professional fees and costs charged by the Town's contract engineers, attorneys, surveyors, inspectors, planners and accountants. The Land Use Authority shall have sole and exclusive authority to determine when the proper evaluation of a Land Use Application under Town Land Use

Regulations requires review, advice or other services to the Town by said professional parties (collectively, "Professional Review"). Except for plan review services, in all other instances where Professional Review is deemed necessary by the Land Use Authority, the Applicant shall deposit with the Town \$500.00 to be applied toward the Professional Review. Only those funds remaining after all approved invoices of the Professional Review have been paid shall be returned to the Applicant. If one of the Town's contract professionals notifies the Town that it anticipates its fees or costs to exceed \$500.00, then the Town shall require the Land Use Applicant to enter into a "Cost Reimbursement Agreement" as provided in Subsection D of this Section with the Town wherein the Applicant agrees to pay for all said fees and costs of the Professional Review. These expenses may include but are not limited to, surveying, engineering, inspections, and legal fees. The Applicant shall pay said costs and fees as a condition of approval or the issuance of Land Use Decision.

- D. Cost Reimbursement Agreement and financial accounting.** The Cost Reimbursement Agreement shall outline the scope of work and include an estimate of costs of the recommended and necessary professional services. The Applicant shall be required to deposit the total estimate of costs to be held in a trust. The Town shall then retain the necessary and recommended professional services and pay for them directly from this account. The Town Council, or Town Designee, shall review each invoice submitted by the professional party prior to approving payment for the same. The Town Clerk shall monitor and make all disbursements from this account based on invoices approved by the Town. Upon written request, the Town Clerk shall provide the Applicant with an accounting of funds dispersed on the Applicants behalf. The Cost Reimbursement Agreement shall further describe the process for the deposit of additional funds by the Applicant if the deposit has been depleted. If additional funds are not deposited, the Town reserves the right to stop all work on the review and/or approval of the application upon written notice to the Applicant, or as otherwise specified in the Cost Reimbursement Agreement. The Agreement shall state that the funds may only be used on Applicant's behalf, and that no funds shall be returned to the Applicant, except those remaining after all approved invoices have been paid.
- E. Criteria.** The Town Council shall consider the following criteria and make appropriate findings when determining whether the professional services of one or more independent consultants are necessary:
1. The nature, scope, duration and technical complexities of the project being applied for;
 2. The overall impact the project being applied for will have to the health, safety and welfare of the Town, including, but not limited to, environmental impact, fiscal impact, social, educational or historical impact, demand impact on Town services, future growth impact, etc.; and
 3. The limited resources of the Town, including, but not limited to, personnel, expertise and/or fiscal resources.
- F. Fees and costs upon appeal.** In the event an Applicant appeals a Land Use Decision of any Town Land Use Authority, whether at the administrative level through the Variance and Appeal Hearing Officer or in Court, the Applicant shall pay all of the Town's costs and expenses incurred as a result of the appeal, including reasonable attorneys' fees and costs, if the Variance and Appeal Hearing Officer or Court upholds the Land Use Decision. The fee for an Appeal of a Land

Use Application fee shall be returned to the Applicant if the Variance and Appeal Hearing Officer determines the fee unreasonable as provided for in section 7.2.3 of this Land Use.

9.3 PENALTIES AND FINES (IADU Penalties and Fines Governed by Section 5.10.6)

- 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 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 19th day of July, 2023.

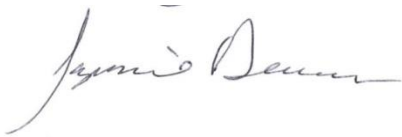
Those voting AYE: Mayor Duncan, Council Members: Gibson, Holland and O'Brien

Those voting NAY: None

ABSENT: Council Member Hill

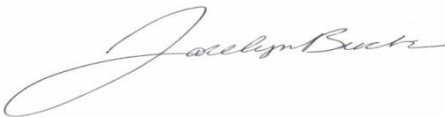
TOWN OF CASTLE VALLEY:

Jazmine Duncan, Mayor

A handwritten signature in cursive script, appearing to read "Jazmine Duncan".

ATTEST:

Jocelyn Buck, Town Clerk

A handwritten signature in cursive script, appearing to read "Jocelyn Buck".

Official Seal of the Town of Castle Valley: