

AN ORDINANCE OF THE BICKNELL TOWN AMENDING ORDINANCE NO. 10-6-2016 AND ORDINANCE 1995-A, TO ESTABLISH THE REGULATORY CODES AND GUIDELINES TO GOVERN ZONES BY REGULATION, SIZE OF LOTS AND OTHER OPEN SPACES, THE DENSITY AND DISTRIBUTION OF POPULATION AND THE LOCATION AND USE OF LAND, AND ALL TYPES OF CONSTRUCTION WITHIN THE TOWN.

WHEREAS, the 2015 International Building Code is hereby declared to be a public record;

WHEREAS, The Mayor and Council deem it necessary, in order to protect the public health, safety and welfare and public and private property, to adopt certain rules to regulate the zones, size of lots and open spaces, density and distribution of population and the location and use of land, and construction, enlargement, alteration, movement, replacement, repair, equipment, use and occupation, location, maintenance, removal and demolition of any buildings, or structures or any appurtenances connected or attached to such buildings or structures;

THEREFORE, BE IT ORDAINED by Bicknell Town Council that:

Section 1. PURPOSE

It is the purpose and intent of this ordinance to establish the regulatory codes and guidelines to govern construction within Bicknell Town in a thorough and concise manner while also providing for the adoption of changes to the codes and guidelines without the necessity of adopting new ordinances for each change or amendment to said codes and guidelines; (2016 Code) and to designate and govern zones, size of lots and open spaces, the density and distribution of population and the location and use of land within the town.

Section 2. DEFINITIONS

- A. Conditional Use. A conditional use (permit) is a zoning exception which allows the property owner use of his land in a way not otherwise permitted within the particular zoning district.
- B. NONCONFORMING BUILDING OR STRUCTURE. A building or structure or portion thereof, lawfully existing at the time of this Ordinance became effective, which does not conform to all the regulations herein prescribed in the zone in which it is located.
- C. NONCONFORMING USE. A use which lawfully occupied a building or parcel of land at the time this ordinance became effective and which does not conform to the use regulations of the one in which it is located.
- D. UNREASONABLE HARDSHIP. An “unreasonable hardship” refers to difficulty in complying with a zoning ordinance because of circumstances unique to the

property. The hardship must relate to the property and not to conditions general to the area. A hardship may not be self-imposed or solely economic.

Section 3. Other ordinances or sections of ordinances which are in conflict with this Ordinance, or any part of it are repealed.

#### Section 4. CODES ADOPTED

- A. Building Code: The International Building Code (IBC) as adopted by the State, is hereby adopted as the official Building Code for the Town, subject to section 3 of this ordinance.
- B. Fire Code: The International Fire Code (IFC), as adopted by the State, is hereby adopted as the official fire code for the Town, subject to section 3 of this ordinance.
- C. Other Codes As Approved: All other building, plumbing, electrical, mechanical, property maintenance, energy and/or natural gas codes established and adopted as standard by the State at the time of adoption of the ordinance herein, including their amendments, shall hereby become established as the adopted codes of the Town, subject to section 3 of this ordinance. (2016 Code)

#### Section 5. SUCCESSOR CODES

The adoption of any and all codes, as established herein, as the adopted codes of the Town, shall also adopt any replacement or successor codes as they become adopted by the State and shall become effective by the Town immediately upon passage by the State legislature. (2016 Code)

#### Section 6. BUILDING PERMIT REQUIRED; EXCEPTIONS; FEES

- A. Any owner or authorized agent who intends to construct, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical or plumbing system, the installation which is regulated by the IBC, or cause any such work to be done, shall obtain a building permit following the process in Section 7 of this ordinance.
- B. Work which is exempt from obtaining a permit shall not be deemed to grant authorization for unsafe work which is in violation of the IBC or any other county, state or other ordinances or laws with applicable jurisdiction.
- C. Permits are not required for small jobs or remodeling which does not require modification of electrical, gas, mechanical or plumbing system, or altering of support beams or means of egress. Permits are not required for:
  - 1. one story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet;
  - 2. fences not over 6 feet high;
  - 3. retaining walls not over 4 feet high from bottom of footing to top of wall;
  - 4. sidewalks and driveways not more than 30 inches above grade and not over any basement or story below and which are not part of an accessible route.

- D. The town council shall have the power to determine and change building permit fees through resolution. (2016 Code) The fee schedule and coordinating details between the Inspector and the Town are spelled out in the signed agreement between the Building Inspector and the Town dated October 25, 2016. This agreement is subject to change and amending on agreement of both parties.
- E. Coordinating details between the Inspector and the Town are spelled out in the signed agreement between the Building Inspector and the Town dated October 25, 2016. This agreement is subject to change and amending on agreement of both parties.

#### Section 7. APPLICATION AND PLANS

- A. A building permit application shall be obtained from the town clerk. The application shall be accompanied by plans and specifications in duplicate, in which must state the specific nature of the construction or alterations to be made. The plan must be verified by the person who will perform or be in charge of the construction or alteration.
- B. Such applications with plans shall be referred to the building inspector, who shall examine the plans to determine whether the proposed construction or alteration will comply with the relevant ordinance provisions. The town will follow the international building code. Upon approval, the set of plans shall be returned to the applicant and the application will be signed. If duplicate plans were submitted, the other shall be retained by the building inspector.
- C. The applicant shall present the signed application to the Planning Commission at a regular commission meeting for approval. Once approved the applicant shall present the application to the Town Board at a regular board meeting for final approval and to obtain a signed building permit. No permit shall be issued until the approval of the plans and all necessary signatures are present.
- D. It shall be unlawful to vary materially from the submitted plans and specifications, unless such variations are submitted to and approved by the building inspector in an amended plan. (2016 Code)

#### Section 8. INSPECTIONS

- A. The inspector is hereby authorized to inspect or cause to be inspected all building and structures in the course of construction, modification or repair, and to inspect building and land uses to determine compliance with the provision of this chapter.
- B. The town contracts with the Wayne County building inspection service. The inspector does not serve as a teacher or instructor on projects. The inspector's responsibilities are to inspect completed work and note any deficiencies and required corrections.
- C. Requests must be made at least twenty-four (24) hours in advance to the inspector.

## Section 9. SETBACKS, SIZE, HEIGHT, AND VIEW RESTRICTIONS

- A. FAMILY DWELLINGS OR MAIN BUILDINGS shall be located on at least ½ Acre or 21,780 square feet of property and must abide by the following setbacks:
  - 1. Front Setback: A minimum of Twenty-four feet (24') from the property line to the dwelling/building;
  - 2. Side Setback: Twelve feet (12') from the property line along the side and rear from the property;
  - 3. Corner lots need twenty-four feet (24') front and street side from the property.
- B. DETACHED ACCESSARY BUILDINGS must abide by the following setbacks:
  - 1. Twenty-four feet (24' along the front or street access) from the property line;
  - 2. Three feet (3) side and rear with no street access from the property line;
  - 3. Buildings placed on corner of lots need twenty-four feet (24') front and side from the property line.
- C. Building Height of any type of structure must not exceed 20 feet to the eaves.
- D. A family dwelling shall include any permanent structure or temporary structure having a minimum of six hundred (600) feet of floor space. No permits for dwelling structures having less than six hundred (600) square feet of floor space shall be issued.
- E. No dwelling or building shall be constructed which blocks the view of any existing dwelling.

## Section 10. VARIANCES

### GENERAL PROVISIONS:

- A. Any person or entity desiring a waiver or modification of the requirements of Bicknell Town land use ordinances as applied to a parcel of property that such person owns, leases or in which such person holds some other beneficial interest, may apply to the Bicknell Town Council for a variance from the terms of such ordinances. An application for variance shall be filed with the town clerk. The variance application shall contain the following information:
  - 1. A description of the requested variance, together with a designation of the ordinance provision from which relief is being requested;
  - 2. The manner in which the variance will be applied and its effect upon adjacent properties;
  - 3. A notarized letter from each property owner whose property is adjacent to the parcel of property stating their opinion of the variance;
  - 4. A site plan and all other plans necessary to show the manner in which the requested variance will be applied, drawn to scale;
  - 5. The appropriate filing fee as established by resolution of the Town Council.
- B. No application for a variance from this title may be set for public hearing unless the town staff has reviewed the application and determined the application to be appropriate and complete. If the town staff determines that the application complies with the provisions of this section, said application shall be forwarded to the Planning Commission. If the town staff determines that an application does not comply with the provisions of this section, the town staff shall return the

incomplete application to the applicant and provide a written explanation for the rejection.

- C. Upon receipt of an application for variance by the Planning Commission, the Planning Commission shall schedule a public hearing, which shall be noticed in accordance with Utah state code. At the public hearing, the Planning Commission will consider and make a recommendation which will be forwarded to the Town Council that they grant, grant with conditions, deny said variance, or continue consideration at a later date.
- D. Upon receipt of an application for variance and a recommendation from Planning Commission, the Town Council shall schedule a public hearing, which shall be noticed in accordance with Utah state code. At the public hearing, the Town Council may grant, grant with conditions, deny said variance, or continue consideration at a later date. If consideration of the variance is adjourned within thirty-five (35) days following the closing of the public hearing on an application for variance, the Town Council shall act on the application at a public meeting held in conformance with Utah Code Annotated title 52, chapter 4, open and public meetings act. (2016 Code)

**STANDARDS:** The Town Council may grant a variance only if:

- A. Literal enforcement of the provisions of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of Bicknell Town's general plan or land use ordinances;
- B. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
- C. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
- D. The spirit of the land use ordinance is observed and substantial justice is done. (2016 Code)

**UNREASONABLE HARDSHIP:** In determining whether or not enforcement of this title would cause unreasonable hardship, the Town Board may not find an unreasonable hardship unless the alleged hardship:

- A. Is located on or associated with the property for which the variance is sought; and
- B. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. (2016 Code)

**SELF-IMPOSED HARDSHIP OR ECONOMIC HARDSHIP:** In determining whether or not enforcement of this title would cause unreasonable hardship, the Town Board may not find an unreasonable hardship if the hardship is self-imposed or economic.

**SPECIAL CIRCUMSTANCES:** In determining whether or not there are special circumstances attached to the property, the Town Board 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 district. (2016 Code)

**BURDEN OF PROOF:** The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met. (2016 Code)

**CONDITIONS RUNNING WITH LAND:** Variances are conditions that run with the land. (2016 Code)

USE VARIANCES PROHIBITED: The Town Council may not grant use variances which allow a use in a zoning district which is not a permitted use for that district. (2016 Code)

ADDITIONAL REQUIREMENTS: In granting a variance, the Town Council 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. (2016 Code)

LAPSE AND RENEWAL OF VARIANCE:

- A. A variance shall lapse and shall become void one year following the date on which the variance became effective unless prior to the expiration of the one-year period:
  - 1. A building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variance application; or
  - 2. A permit is issued authorizing the subject of the variance application; or
  - 3. The site is occupied if no building permit or certificate of occupancy is required; or
  - 4. The variance is renewed as provided in subsection B of this section.
- B. A variance may be renewed for one additional period of no more than one year in length; provided, that at least sixty (60) days prior to the expiration of one year from the date when the variance became effective, an application for renewal of the variance is filed with the town clerk. The applicant shall clearly demonstrate that:
  - 1. In spite of the good faith efforts of the applicant, circumstances beyond the applicant's control have prevented the timely pursuit of the project and completion of the necessary requirements within the original time frame; or
  - 2. The applicant has completed substantial property improvements; incurred substantial nonrecoverable monetary expenditures or commitments; or has completed supporting project related improvements or retained the services for preparation of supporting data in reliance upon the approval of the request.
- C. In either instance, the applicant is, in good faith, continuing to diligently pursue implementation of the proposal to the degree authorized by the town. (2016 Code)

REVOCAION: A variance granted by the appeal authority and subject to conditions may be modified or revoked, after notice and hearing, if the appeal authority finds one or more of the following:

- A. That the variance was obtained by misrepresentation or fraud; or
- B. That the conditions imposed upon said variance have not been complied with. (2016 Code)

## Section 11. NONCONFORMING BUILDINGS AND USES

- A. MAINTENANCE PERMITTED: A nonconforming building or structure may be maintained.

- B. REPAIRS AND ALTERATIONS: Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use with a valid building permit.
- C. ADDITIONS, ENLARGEMENTS AND MOVING:
  - 1. A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner or moved to another location on the lot except as provided herein.
  - 2. A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area or yard regulations may be added to or enlarged or moved to a new location on the lot upon variance authorized by the Town Board, which may issue; provided, that the Town Board after hearing, shall find:
    - a. The addition to, enlargement of, or moving of the building will be in harmony with the purposes of and shall be in keeping with the intent of this title.
    - b. The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.
- D. RESTORATION OF DAMAGED BUILDINGS: A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God, may be restored and the occupancy or use of such building or structure, or part thereof, which existed at the time of such damage or destruction may be continued or resumed; provided, that such restoration is started within a period of one year and is diligently pursued to completion.
- E. ONE YEAR VACANCY: A building or structure, or portion thereof, occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one year, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.
- F. CONTINUATION OF USE: The occupancy of a building or structure by a nonconforming use, existing at the time the ordinance codified herein becomes effective, may be continued.
- G. OCCUPATION WITHIN ONE YEAR: A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one year after the use became a nonconforming use.
- H. CHANGE OF USE: The nonconforming use of a building or structure may not be changed except to a conforming use; but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

## Section 12. SIGNS

- A. Signs must be approved by the Town Council during a regular town council meeting.
- B. Signs must maintain clear view requirements and no part shall be within 3 feet of any road or street right of way, property line or utility easement, and must

maintain necessary clearances from underground or overhead power transmission lines, as required by the electrical power provide.

- C. No sign shall be located in any clear view area at a road intersection and no sign shall be permitted that creates any traffic or pedestrian hazard.
- D. All signs shall be structurally sound and maintained in good repair and condition.
- E. Signs must be designed to be an integral site and/or building design element. All signs shall be compatible in design, style, color and materials with the existing or proposed buildings or structures to which the sign is associated.
- F. No sign or sign structure shall be permitted that will interfere with fire appliances, or hydrants. No sign shall obstruct any fire lane.
- G. A valid building permit may be necessary, as required by the adopted building code. All signs for which a building permit is required, including necessary footings, structural permits or electrical permits, shall comply with the requirements of the building code, as adopted, and shall be subject to inspection.
- H. The building inspector shall inspect, or reinspect, any sign for which a building permit has been issued and for which an inspection is required. Such inspections shall ensure that all signs are in conformance with this ordinance and the building code, as adopted.
- I. All businesses and services advertised shall maintain necessary licenses and permits, as may be required by the state, the county and the town business licensing requirements as applicable.
- J. Any sign determined to be a hazard to the public health, welfare or safety, or determined to be a nuisance because of inadequate maintenance, dilapidation or building code violation, shall be remedied upon notice by the Town Council or building inspector. Any sign not remedied within 30 days of said notice shall be subject to removal by the town, or other remedies that may be available to the town. The town reserves the right to charge the property or business owner reasonable costs for sign removal and pursue collection methods allowed under law, if necessary.
- K. External or internal lighting or backlighting shall be allowed for illuminated signs.
- L. The following signs are prohibited:
  - (1) Portable Signs. Movable or portable signs and signs not permanently installed in the ground or on a pole or building, except as specifically allowed by this chapter.
  - (2) Signs Which Distract. Signs which simulate or imitate in size, coloring, lettering or design any traffic sign or signal, or use the words "STOP," "YIELD," "DANGER," or any other words, phrases, symbols or characters in such a way as to interfere with, mislead or confuse drivers.
  - (3) Obsolete or Abandoned Signs. Obsolete or abandoned signs or messages which identify services no longer provided on the premises. Conforming sign structures may remain on a site but all sign copy shall be removed and the sign shall be covered with a durable opaque material to prevent deterioration during the period in which the sign structure is unused.
  - (4) Flashing Signs. Signs with flashing or strobe-like lighting effects.



- (5) Signs with Sound-Emitting Devices. Any sign equipped with any device which creates or amplifies sound.
- (6) Extending Signs. Signs that hinder foot traffic or are in Town or State right a-ways.
- (7) Signs in Clear Vision Zone. Signs located within the clear vision zone.
- (8) Roof Signs. Any sign mounted on the top of, or roof of, any building or structure.
- (9) Signs on any city owned property, except for signs maintained by the town.
- (10) Flashing signs or lights that contain intermittent, pulsating or flashing light sources.
- (11) All signs painted on or attached to vehicles that are parked on the public right of way or on private premises for the purpose of advertising, unless such vehicles are currently in use for normal business operations associated with the business being advertised.
- (12) Any sign, statement, symbol or picture of an obscene nature.

### Section 13. ZONES

- A. The Commercial Residential Zone: This zone is established as an area in which the primary use of the land is for business or residential purposes. The area covered by this zone is intended to be the dominant business center of the town. Other permitted uses in this zone include but are not limited to the following: recreation and park areas, residential dwellings, short term rentals, motels, restaurants, schools, public buildings, and similar uses that would be in harmony with the objectives and characteristics of this zone as determined by the Town Board.
- B. The Residential Agricultural Zone: This zone is established as an area in which the primary use of the land is for single family home dwelling purposes, and for small scale, part-time farming. This zone is characterized by dwellings situated on large, urban-type lots and small farms occupied largely by families who desire to increase their living pleasure by raising agricultural produce or by maintaining a limited number of domesticated animals. To further clarify, permitted uses would be tilling of soil, raising crops, horticulture and gardening, but not large-scale farming. It would also include raising a limited number of animals for the purpose of maintaining the land and maintain a rural lifestyle that is part of Bicknell's town history.
  - 1. MINIMUM LAND SPACE FOR EACH DWELLING. An area of not less than 21,780 square feet shall be required and provided for each family dwelling.

Multiple family units contained in one structure shall be on a land area the size of 21,780 square feet minimum with an additional two thousand (2,000) square feet for each additional one-family unit constructed therewith.

2. TRAILER HOMES. Doublewide trailers will be permitted on privately owned ground as long as the axles are removed and they are sitting on a permanent foundation that meets all the requirements of this ordinance. No single wide trailers will be permitted in the Bicknell Town limits except in designated trailer courts.
3. DOMESTIC ANIMALS. No domestic animal shall be maintained upon any lot within Bicknell Town having less than twenty thousand (20,000) square feet and it is further provided that no more than four (4) domestic animals shall be permanently housed in any corral or permanent type pen or enclosure. No building or permanent housing for animals for fowl shall be placed within fifty (50) feet of any residence or fifty (50) feet from the nearest street line. No mink, fox, or furbearing animals shall be allowed.

Temporary grazing of cows, horses or sheep for the purpose of harvesting vegetation on the land shall be permitted in such numbers as are necessary to adequately harvest said land.

#### Section 14. CONDITIONAL USES

- A. PURPOSE: To allow compatible integration into various areas in Bicknell Town of uses which may be suitable only in certain locations within a particular zone or only upon certain conditions or only if such uses are designated or laid out on the proposed site in a particular manner.
- B. CONDITIONAL USE PERMIT: As a matter of policy, the Board will accept and consider applications for conditional use permits in all zones. A conditional use permit may be revoked upon failure to comply with the conditions imposed with the original approval of the permit.
- C. REVIEW PROCEDURE: All applications for conditional use permits shall be made to the Planning Commission, then approved by the Building Inspector, and then reviewed in a regular Town Board meeting for action and approval.

Section 15. The Town Council can adopt amendments by resolution to the IBC as they see fit and which match our rural setting and small-town atmosphere.

#### Section 16. VIOLATIONS

Any violation of this Ordinance may be enforced by civil or criminal citation as consistent with Utah Code. Any owner, architect, contractor or handyman that commences work without first securing a permit required shall be guilty of the offense of starting construction without a building permit. When the building inspector or other authorized person learns of a violation, he or she shall have authority to require that the work stop immediately and that it does not continue until an authorized person acquires a building permit. The fee for the building permit obtained after work has commenced shall be double the amount it would have cost if the applicant had complied with this ordinance.

Section 17. SEVERABILITY

If any section, sentence, clause, phrase, word or other provision of this Ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this Ordinance, or the validity of this Ordinance as an entirety, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 17. SAVING CLAUSE

If an item in this Ordinance or any addenda thereto is held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any Ordinance is restrained by such tribunal, the remainder of this Ordinance and addenda shall not be affected thereby, and the parties shall enter into immediate discussion for the purpose of arriving at a mutually satisfactory replacement for such Ordinance.

- (1) If the Town Code is modified during the term of this Ordinance and any modifications thereof conflict with an express provision of this Ordinance, the express provision shall become null and void.

This Ordinance was approved and adopted by the Bicknell Town Council on this \_\_\_\_\_ Day of \_\_\_\_\_, by the Mayor and Town Council of Bicknell Town.

\_\_\_\_\_  
Mayor, Noreen Johnson

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Attest: Town Clerk, Connie Durfey

Town Board Members voting aye:

Town Board Members voting nay:

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