

CHAPTER 5. CONDITIONAL USES

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5-1 PURPOSE OF LAND USE CONDITIONAL USE PROVISIONS.

The term “Land Use Conditional Use” refers to a land use, which would not be permitted under the normal regulations for the zoning district. The use in question, may, however, be made acceptable in the zoning district if construction or development of the use complies with specified additional development standards or special conditions provided, generally, by the planning commission.

Certain uses which may be harmonious under special conditions and in specific locations within a district, but be improper under general conditions and in other locations, are classed as Land Use Conditional Uses within the various districts and require Land Use Conditional Use Permits for approval.

5-2 PERMIT REQUIRED.

- (1) A Land Use Conditional Use Permit shall be required for a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.
- (2) No building permit or other permit or license shall be issued for a use requiring Land Use Conditional Use approval until a Land Use Conditional Use Permit has first been approved by the application process as outlined in this chapter.

5-3 APPLICATION PROCESS.

- (1) All Land Use Conditional Use Permit applications, that are not Home Occupation Business Conditional Use Permit applications, shall be submitted to the City Staff and require action of the Planning Commission. The Planning Commission shall recommend to the City Council. The City Council shall approve, approve with conditions, or deny.

5-4 APPLICATION FEE.

The Land Use Conditional Use Permit application shall be accompanied by a filing fee in an amount established by the City Council.

5-5 NOTIFICATION FOR LAND USE CONDITIONAL USE PERMITS.

- (1) Prior to the issuance of the Land Use Conditional Use Permit, the adjacent property owner(s) shall be notified of such application. The City shall request, by registered U.S. mail, comment from each of the adjacent owners of record, on a form provided by Enoch City, to be returned to the City Recorder. For the purpose of this section, adjacent property owners means any and all owners of record of real property adjoining by mutual boundaries, including those across all easements, rights-of-way, streets and roads.
- (2) The letter of notification and request for comment sent to adjacent property owners shall identify the proposed or potential improvements for which an adjacent property owner may experience impacts as a result of the Land Use Conditional Use Permit being issued. A development plan required in Section 5-6 of this chapter shall also be provided.
- (3) The adjacent property owners shall be given ten days to file, in writing with the City Recorder, a protest of such Land Use Conditional Use Permit application. After the ten day protest period, the Land Use Conditional Use Permit application may be placed on the next available Planning Commission agenda.

5-6 DEVELOPMENT PLANS.

The applicant for a Land Use Conditional Use Permit shall prepare a site plan for the site being proposed for development or use. The plan shall be drawn to scale and shall show all existing and proposed buildings, facilities, roads, parking, and other information that the Planning Commission may deem necessary.

5-7 PLANNING COMMISSION ACTION.

- (1) All Land Use Conditional Use Permits shall require action by the Planning Commission. The Planning Commission shall recommend to the City Council.

5-8 CITY COUNCIL ACTION.

- (1) All Land Use Conditional Use Permit applications require City Council action, after Planning Commission recommendation. The City Council shall then approve, approve with conditions, or deny said applications.

5-9 APPROVAL CRITERIA AND STANDARDS.

- (1) Health, Safety and Welfare
When approving Land Use Conditional Use Permits, the Planning Commission or City Council may impose conditions that would be necessary to protect the health, safety, and welfare of the City and its residents. In approving a Land Use Conditional Use Permit the Planning Commission and City Council must find:
 - a. that the purpose is desirable and will contribute to the general well-being of the community;
 - b. that the use will not be detrimental to the health, safety, or welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
 - c. that the proposed use will comply with regulations of this Ordinance; and
 - d. that the proposed use is in harmony with the intent and purpose of the general plan or that the plan shall have first been amended through public hearing.
- (2) Utilities and Municipal Services
A Land Use Conditional Use must not cause a demand for municipal services or involve community activities in excess of normal for the underlining zone. Use of utilities, from any source, shall be within normal residential volumes and deliverable from the same size line and conduit otherwise used by the underling zone in which a business is located.

5-10 EXPANSION OF A LAND USE CONDITIONAL USE.

No land in which a Land Use Conditional Use is located may expand without following the process for a new Land Use Conditional Use Permit.

5-11 ISSUANCE OF BUILDING PERMIT.

Following the issuance of a Land Use Conditional Use Permit by the City Staff, Planning Commission, or City Council, the City Staff may approve an application for a building permit and shall insure that development is undertaken and completed in compliance with said Land Use Conditional Use Permit and building permit.

5-12 TIME LIMITATIONS.

The only time limit for any type of Land Use Conditional Use Permit shall be the time limitation, if any, imposed by the Planning Commission at the time the permit is granted.

5-13 PUBLIC HEARING, COMPLAINTS, MODIFICATIONS, AND REVOCATIONS.

- (1) A public hearing, regarding an approved Land Use Conditional Use Permit, shall be required before the Planning Commission, when a written complaint about a previously approved Land Use Conditional Use Permit is made to the City or the City believes that grounds exist for revocation or modification of an approved Land Use Conditional Use Permit. All adjacent property owners, as defined in Section 5-5, shall be notified of the public hearing, in writing, at least 7 days prior to the public hearing, by City Staff.
- (2) A previously approved Land Use Conditional Use Permit may be modified or revoked if the Planning Commission finds that one or more of the following conditions exist:
 - a. The Land Use Conditional Use Permit was obtained in a fraudulent manner.
 - b. The use for which the Land Use Conditional Use Permit was granted has now ceased for at least six consecutive calendar months.
 - c. One or more of the conditions of the Land Use Conditional Use Permit have not been met.
 - d. The use or related development constitutes or is creating a demonstrated nuisance.

5-14 PURPOSE OF HOME OCCUPATION CONDITIONAL USE PERMITS.

- (1) The purpose of Home Occupation Conditional Use Permits is to allow for a portion of residential dwellings to be used in a manner subordinate to its principle use as a residence.
- (2) The Home Occupation Business must be clearly secondary to the residential use of the property. Requiring Home Occupational Business Conditional Use Permits will help ensure compatibility with the primary purpose of the residential zones, avoid conflicts with surrounding neighbors, and permit uses normally permitted in commercial zones.

5-15 PERMIT REQUIRED.

No building permit or other permit or license shall be issued for a use requiring Home Occupation Business Conditional Use approval until a Home Occupation Business Conditional Use Permit has first been approved by the application process as outlined in this chapter.

5-16 APPLICATION PROCESS.

Home Occupation Business Conditional Use Permit applications shall be submitted to the City Staff. If City Staff determines the Home Occupation Business falls within the conditions set-forth in Section 5-19, the City Staff shall approve the Home Occupation Business Conditional Use Permit. If the City Staff determines the Home Occupation Business does not fall within conditions set-forth in Section 5-19, the Home Occupation Business Conditional Use Permit application may be placed on the next available Planning Commission agenda. The Planning Commission shall approve, approve with conditions, or deny said application. City Council action is not required.

5-17 APPLICATION FEE AND BUSINESS LICENSE.

The Home Occupation Business Conditional Use Permit application shall be accompanied by the regular business license fee established by the City Council. All Home Occupation Business Conditional Use Permits shall be required to obtain a valid City Business License within 30 days of approval of permit.

5-18 DEVELOPMENT PLANS.

If new construction is imminent, the applicant for a Home Occupation Business Conditional Use Permit shall prepare a site plan for the site being proposed for development or use. The plan shall be drawn to scale and shall show all existing and proposed buildings, facilities, roads, parking, and other information that the Planning Commission may deem necessary.

5-19 ADMINISTRATIVE ACTION.

The City Staff may approve Home Occupation Business Conditional Use Permits provided that the Home Occupation Business:

- (1) does not result in noise or vibration, light, odor, dust, smoke, or other air pollution noticeable at or beyond the property line;
- (2) is clearly subordinate to the use of the lot for dwelling purpose and does not change the character of the lot;
- (3) does not include the outside storage of goods, materials, or equipment;
- (4) has signage limited to non-illuminated identification sign two square feet or less in size, and limited to one sign at the business location;
- (5) does not produce traffic volumes exceeding that produced by the dwelling unit by more than 10 average daily trips or a maximum of 20 trips during any 24-hour period;
- (6) does not include nursing homes, restaurants, vehicle repair businesses, boarding houses, or automotive sales;
- (7) complies with all required Federal and State licensing requirements;
- (8) provides sufficient off-street parking to accommodate increased vehicle traffic caused by the Home Occupation Business; and
- (9) the applicant resides in the residence for which the application is being made.
- (10) does not generate any wastewater other than from the restrooms. (Rev.2-12)

5-20 PLANNING COMMISSION ACTION.

Home Occupation Business Conditional Use Permits shall only require Planning Commission action if an appeal is filed on a City Staff action.

5-21 CITY COUNCIL ACTION.

Home Occupation Business Conditional Use Permits shall only require City Council action if an appeal is filed on a Planning Commission action.

5-22 APPROVAL CRITERIA AND STANDARDS.

- (1) Utilities and Municipal Services

A Conditional Use Home Occupation Business must not cause a demand for municipal services or involve community activities in excess of normal for the underlining zone. Use of utilities, from any source, shall be within normal residential volumes and deliverable from the same size line and conduit otherwise used by the underling zone in which a business is located.

- (2) Deliveries
Deliveries by commercial vehicles to a residence shall not exceed that frequency considered to be a nuisance to the neighborhood.
- (3) Safety
Home Occupation Businesses permitted in a residential area shall conform to all requirements of City, State, or Federal Law with regard to the maintenance or storage on the premises of a hazardous or dangerous material or instrumentality and equipment and supplies utilized in the Home Occupation Business shall not be any more dangerous than the types of equipment and materials normally found at a residence.
- (4) Business Vehicles
Business vehicles that are regularly parked at the residence, shall be limited to the off-street parking of two vehicles, including trailers and less than 10,000 GVW, in addition to the residents' personal vehicles.

5-23 EXPANSION OF A CONDITIONAL USE.

No structure in which a conditional use is located may expand without following the process for a new Home Occupation Business Conditional Use Permit.

5-24 ISSUANCE OF BUILDING PERMIT.

Following the issuance of a Home Occupation Business Conditional Use Permit by the City Staff, the City Staff may approve an application for a building permit and shall insure that development is undertaken and completed in compliance with said Home Occupation Business Conditional Use Permit and building permit.

5-25 TIME LIMITATIONS.

All Home Occupation Business Conditional Use Permits will be reviewed by the City Staff on the anniversary date of the approval. If the Home Occupation Business Conditional Use Permit is in compliance with this Ordinance and all conditions set, continuation of a business license for the coming year may be approved. If it is determined that the Home Occupation Business Conditional Use Permit is not in compliance with this Ordinance and all conditions set, the Home Occupation Business Conditional Use Permit shall be revoked.

5-26 APPEALS.

- (1) Decisions of the City Staff in applying the provisions of this Chapter may be appealed to the Planning Commission by filing a written application and all materials necessary for review within 30 days of the date of the City Staff decision.
- (2) Any person aggrieved by a decision of the Planning Commission, in applying the provisions of this Chapter, may file an appeal with the Enoch City Council within 30 days of the date of the decision specifying the nature of the appeal.

- (3) Any person aggrieved by a decision of the City Council may file an appeal to District Court within 30 days of the date of the decision pursuant to the provisions of the Municipal Land Management and Development Act, Utah Code.

(Chapter 7. Conditional Uses amended 12-17-2003.)

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