

## CHAPTER 4

### CONDITIONAL BUSINESSES

#### SECTION:

- 3-4-1: Permits and Regulations
- 3-4-2: Nonconforming Businesses
- 3-4-3: Home Occupations
- 3-4-4: Child Care Businesses
- 3-4-5: Home Businesses

3-4-1: **PERMITS AND REGULATIONS:** Requests for business licenses of those types of businesses requiring conditional use permits shall be considered by the Land Use Authority, when such businesses meet the requirements of Section 10-3-5 of this Code (Conditional Use Permits), the general requirements for business licenses under Chapter 1 of this Title, and meet each of the requirements set forth in this Chapter relevant to that business type. The business license for the business activity for the prescribed effective dates of the license shall be subject to annual renewal, in January, under these regulations. (Ord. 94-111, 8-23-1994)

3-4-2: **NONCONFORMING USE BUSINESS:** The conditions for a nonconforming use business are as follows:

- A. Utah Code 10-9a-103(28) "Nonconforming use" means a use of land that:
  - (a) legally existed before its current use designation;
  - (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
  - (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.
- B. State or Federal Requirements: Applicant shall apply for and receive any required State or Federal licensure or certification, as required by the business activity, prior to renewal for City License.
- C. Renewal: All nonconforming business licenses are granted from date of issuance to the following January and must be renewed thereafter annually in January. Compliance with stated conditions will be reviewed at the time the conditional use is originally granted and annually when it is renewed. Complaints against the business can also cause a review and possible revocation of the permitting license.
- D. Display of License: The business shall display such license in his place of business so that the same is plainly visible to the public.

- E. Inspection Rights: The City will perform an inspection prior to issuing a business license. The City reserves the right to perform follow up inspections to ensure code compliance. (OM 010-2004 07/26/05)
- F. Nuisances; Disturbances Prohibited: For the duration of licensure, the business shall not create any disturbances such as noise, odor, fumes, light, glare, color, design, materials, construction, lighting, or vibrations or other nuisances, including radio and television reception, parking problems, impeding or disrupting traffic, either pedestrian or vehicular, exposed external storage, unsightliness or pollution that may be discernible beyond the premises or unreasonably disturb the peace and quiet of the neighborhood.
- G. Vehicles Advertising: Any vehicle or equipment bearing any advertising related to the business shall be operable, stored entirely on private property and not be parked expressly for advertising purposes.
- H. Code Compliance: There shall be complete uniformity with fire, building, electrical and health codes and to all State and City laws and ordinances.
- I. Utility Rates: The business shall be charged at the current commercial rate for utilities.
- J. Changes In Use: The nonconforming use of a building or structure may not be changed, except to a conforming use. Where such change is made, the use shall not thereafter be changed back to a nonconforming use. The nonconforming use may not be transferred.
- K. Disabled Persons; Consideration: Special consideration may be given to disabled persons, if a waiver of these conditions is requested through the City Council at the time of licensure.

3-4-3: REPEALED

3-4-4: **CHILD CARE PROVIDERS AND BUSINESSES:** The conditions for a child care business permit are as follows:

- A. City License Application: Applicant shall fill out and file with the City a business license application as required under the provisions of Chapter 1 of this Title. The provisions set forth shall be controlling as to all matters relating to the requirements for and issuance of a license, license fees, exemptions, renewals, etc. However, this Section shall not be construed so as to waive the provisions and requirement of any other ordinance of the City and the requirements and fees herein shall be in addition to any other requirements and fees of any other ordinance.

- B. Display of License: Child care businesses shall conspicuously display such license in their place of business so that the same is plainly visible to the public.
- C. Code Compliance: The child care business shall, at all times, meet all fire, building, health and safety codes applicable to the age and number of children attending.
- D. Facilities; Sanitation: Child care businesses shall be equipped with adequate bathroom facilities which shall be maintained in a sanitary manner and kept in good repair, and have locks that are readily operable by staff from the outside.
- E. Health Regulations: The child care business is subject to any required rules, regulations and inspections as set forth by the Bear River Health Department.
- F. State or County Requirements: All required State or county licenses and permits shall be obtained prior to application. Providence City requires all child care providers as defined by Utah Code 26-39-102 to be licensed by the State. Providence City requires all daycare providers and pre-schools to obtain a “voluntary” license from the State.
- G. Regulations During License Period: For the duration of the licensed period, a child care business, if located in a dwelling, shall:
  - 1. Incidental Use: Remain clearly incidental and secondary to the use of the dwelling and not change the character thereof.
  - 2. Residential Character Maintained: Not detract from the residential character of the neighborhood, nor physically change the dwelling to the extent that it would alter the residential character or appearance of the dwelling on the neighborhood.
  - 3. Disturbances: Not create any disturbances such as noise, parking problems, impeding or disrupting traffic, either pedestrian or vehicular, unsightliness or pollution that may be discernible beyond the premises or unreasonably disturb the peace and quiet of the neighborhood.
  - 4. Sign Regulations: See Title 10, Chapter 15 of this Code.
- H. Square Footage: Indoor areas used for the child care business shall be clean, present no hazards to the safety of the children, and shall meet State regulations for minimum square footage for the daily activities of each child. Child care businesses may not operate on or above the second story of the building.

- I. Outdoor Areas: Outdoor areas used for the child care business shall be clean, present no hazards to the safety of the children, and shall meet State regulations for minimum square footage for each child.
- J. Fencing: Outdoor activity areas must be fenced unless otherwise approved by the City. All fences must be constructed so as to contain in the activity area, such as a chain-link or solid board fence.
- K. Utility Rates: The child care business shall not cause a demand for City or utility services or community facilities in excess of those usually and customarily provided for residential uses. Any utility or City service usage in excess of the customary residential service shall be charged at the current commercial rate.
- L. Renewal: All child care business permits are granted for a one year period and must be renewed annually in January. Compliance with stated conditions will be reviewed at the time the conditional use permit is originally granted and annually when it is renewed. Complaints against the child care business can also cause a review and possible revocation of the permitting license. A change in the instructor to whom the license is issued or in the location of the child care business automatically voids the license issued by the City.
- M. Off-Street Parking: Child care businesses must provide off-street parking for employees' cars, if present, and for children to load and unload in a safe manner, without hindering neighborhood vehicular traffic.
- N. Disabled Persons; Consideration: Special consideration may be given to disabled persons, if a waiver of these conditions is requested through the City Council at the time of licensure. (Ord. 94-111, 8-23-1994; 1998 Code)

3-4-5: **HOME BUSINESSES:** The regulations for a home business are as follows:

- A. State or Federal Regulations: Applicant shall apply for and receive any required State or Federal licensure or certification, as required by the business activity, in conjunction with the application for City license.
- B. City License Application: Applicant shall fill out and file with the City a business license application as required under the provisions of Chapter 1 of this Title. The provisions set forth shall be controlling as to all matters relating to the requirements for and issuance of a license, license fees, exemptions, renewals, etc.

- C. Display of License: Home businesses shall conspicuously display such license in their place of business so that the same is plainly visible to the public.
- D. Inspection Rights: The City will perform an inspection prior to issuing a business license. The City reserves the right to perform follow up inspections to ensure code compliance. (OM 010-2004 07/26/05)
- E. Floor Area Utilized: No more than twenty five percent (25%) of any one floor area of the residential dwelling structure, nor, in the alternative more than fifty percent (50%) of the total floor area of any garage wherein the home business is conducted, shall be utilized for the home business. If the garage is utilized, displaced parking shall be permitted only within the required setbacks. Additionally, the garage door shall remain shut, except for occasional required opening. A passage door shall be provided in addition to the garage door.
- F. Accessory Buildings: A home business may involve the use of any accessory building, yard or activity outside the main building. (OM 010-2004 07/26/05)
- G. Regulations During License Period: For the duration of the licensed period, a home business shall:
  - 1. Incidental Use: Remain clearly incidental and secondary to the use of the dwelling and not change the character thereof.
  - 2. Residential Character Maintained: Not detract from the residential character of the neighborhood, nor physically change the dwelling to the extent that it would alter the residential character or appearance of the dwelling or neighborhood.
  - 3. Nuisances; Disturbances Prohibited: Not create any disturbances such as noise, odor, fumes, light, glare, color, design, materials, construction, lighting, or vibrations or other nuisances, including radio and television, reception, parking problems, impeding or disrupting traffic, either pedestrian or vehicular, exposed external storage, unsightliness or pollution that may be discernible beyond the premises or unreasonably disturb the peace and quiet of the neighborhood.
  - 4. Sign Regulations: See Title 10, Chapter 15 of this Code.
- H. Mechanical, Electrical Apparatus: No mechanical or electrical apparatus, equipment, or tool shall be permitted, except those items which are

commonly associated with a residential use or as are customary to home crafts.

- I. Vehicle Advertising: Any vehicle or equipment bearing any advertising related to the business shall be operable, stored entirely on private property and not be parked expressly for advertising purposes.
- J. Code Compliance: There shall be complete uniformity with fire, building, electrical and health codes and to all State and City laws and ordinances.
- K. Utility Rates: The home business shall not cause a demand for City or utility services or community facilities in excess of those usually and customarily provided for residential uses. Any utility or City service usage in excess of customary residential service shall be charged at the current commercial rate.
- L. Stables; Kennels: A home business shall not be interpreted to include commercial stables and kennels.
- M. Renewal: All home businesses are granted from date of issuance to the following January and must be renewed thereafter annually in January. Compliance with stated conditions will be reviewed at the time the conditional use permit is originally granted and annually when it is renewed. Complaints against the home business can also cause a review and possible revocation of the permitting license.
- N. Disabled Persons; Consideration: Special consideration may be given to disabled persons, if a waiver of these conditions is requested through the City Council at the time of licensure.
- O. Permitted Home Businesses: See Title 10 Zoning Regulations Chapter 6 Use Regulations.
- P. Prohibited Home Businesses: The City Council finds and determines that the business enterprises listed in this subsection will, even when conducted in conformance with the provisions of this Chapter, alter or create a negative impact upon the residential neighborhoods of the City. Because of this finding, and because it is determined that no conditions of operations can remove the inherent harm and negative impact caused by such a business, the following businesses are prohibited.
  - 1. Animal hospitals.
  - 2. Clinics or hospitals.
  - 3. Junk yards.

4. Commercial stables or kennels.
5. Any use dealing with explosive, hazardous or toxic materials not specifically permitted.
6. Other businesses as determined by the City Council. (1998 Code)