



2163 W Erda Way – Erda, UT
(435)243-5577

Amendment

Land Use Code Table 15-5-3.2 Home Based Business Ordinance

Public Body: Erda City Planning Commission

Meeting Date: March 28, 2024

Request: Recommendation of approval for Amendment to Erda Land Use Code Table 15-5 3.2 table of uses and 2-2 definitions to amend Home Based Business.

Planner: Rachele Custer

Planning Commission Recommendation: Favorable 4-3

Planning Staff Recommendation:

Applicant Name: Travis Matern

PROJECT DESCRIPTION

Travis Matern has submitted a business license application for RTM Trucking LLC to be located at 3050 N Bronzewood Circle in an RR-5 zoning district. This application is for home based business to be allowed as a conditional use in the RR-5 zoning district to accommodate their trucking company. They have constructed a large shop to place their equipment in. Home based business is currently not allowed in an RR-5 zoning district. The definition for home based business is attached along with the proposed redline to the table of uses.

PLANNING STAFF ANALYSIS AND RECOMMENDATION

This item was brought before the Planning Commission on October 10, 2023 and received an unfavorable recommendation to City Council. City Council heard the item on November 30, 2023 and motioned that this ordinance be sent back to Planning Commission to work on possible conditions to mitigate potential adverse impacts that may be caused by a home based business. The Planning Commission in a work session on January 9, 2023 came up with some recommended conditions and a recommended change to the definition of home based business. The proposed definition and table of uses is attached.

Planning Commission held a public hearing on the item on February 13, 2024. Planning Commission recommended some more changes and their updated recommended rules are in the attached table. After much debate the Planning Commission had a tied vote of 3 for a favorable recommendation and 3 for an unfavorable recommendation. The reasons for the unfavorable recommendation are if a home has more than one business they should not be allowed to have up to 4 employees for each business. It should be capped at 4 employees per home not per business. This type of business does not fit in a residential area.

Then Planning Commission made a motion to send to City Council without a recommendation.

In doing some research a clear answer as to whether this is a valid recommendation or not is not clear. Provided is the information I have found.

State statute

10-9a-302 Planning commission powers and duties -- Training requirements. (1) The planning commission shall review and make a recommendation to the legislative body for: (a) a general plan and amendments to the general plan; (b)

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land use regulations, including: (i) ordinances regarding the subdivision of land within the municipality; and (ii) amendments to existing land use regulations;

Erda City Planning Commission rules

Voting

- 6.1. Voting shall be in the form of "yes," "no," and "abstain."
- 6.2. All votes requiring a majority shall be a majority of the quorum present, except where State law requires otherwise.
- 6.3. A Commission member who abstains on a question, or is absent, may not move to reconsider that question.
- 6.4. In the case of a tie vote, the motion shall fail.
- 6.5. Commission members shall not explain their votes during the call of the roll or at the time of a voice vote. However, at the conclusion of the vote, any Commission member may request a point of personal privilege to give an explanation of their vote.

On February 22, 2024 the Erda City Council made some recommended updates to the table of uses and sent the Ordinance back to the Planning Commission to make a recommendation.

Planning Staff recommends that the Erda City Council examine all this request thoroughly in making their decision.

It has also been discussed that home based businesses pay residential taxes not commercial taxes. At what point should a business be required to find a commercial location for their business?

On March 12, 2024 Planning Commission made a favorable recommendation 4-3 with two changes to the table. Class 6 or larger vehicles used in the operation of the business shall have frontage on a collector road and be limited to two vehicles larger than a class 6 at the home.

(126) "Home based business" means a **business** use of a scale greater than home occupation but which is still secondary to the residential use. It may be conducted entirely within a dwelling, an accessory structure or on the premises. A home based business does not include agricultural activities.

Table 15-5-3.2. Commercial and industrial uses.

#	Use	Multiple use (MU-)	Agriculture (A-)	Rural Residential (RR-)		
		40	20	1	5	10
	<p>other local health departments for child day care facilities.</p> <p>8. Meals and treats shall be provided in accordance with the Tooele County Health Department Regulations and State of Utah's Residential Certificate Rules: Child Nutrition.</p> <p>9. The employees of the Department of Engineering, Tooele County Health Department, Tooele County Sheriff's Department and the Utah Department of Health shall be permitted to inspect the day care facility during its hours of operation.</p>					
h	Construction equipment and supply trailer, temporary	C1	C1	C1	C1	C1
i	Construction field office, temporary	C1	C1	C1	C1	C1
j	Cottage industry that may be permitted to employ up to 10 employees that reside outside of the dwelling providing adequate off-street parking can be made available on the property	C	C	C	C	C
k	Electromagnetic Interference Testing (As described by FCC Docket No. 20780, Amendment 79-555 Governing Restricted Radiation Devices) (Rev. Or. 81-4)	C	C	C	C	C
l	Home based businesses that may be permitted to employ up to 10 employees that reside outside of the dwelling providing adequate off-street parking can be made available on the property.	C	C	-		C
	<p>Home based business</p> <p>a) Owner of business must occupy residence as their primary residence.</p> <p>b) May be permitted to employ have no more than 4 employees or contractors that reside outside of the dwelling at the residence at one time provided there is at least one off-street parking area available on the property for each employee and contractor.</p> <p>c) All outside storage shall be screened by a view obscuring fence and set behind or to the side of the primary structure and no closer to the road than the front setback the zoning district.</p> <p>d) All work shall be performed inside an enclosed structure.</p> <p>e) Shall be limited to two vehicles larger than a class 6 related to business operations; such vehicles shall not be allowed on residential neighborhood roads and business shall have frontage on a collector road. Access shall comply with Erda land use code 6-7.-</p> <p>f) Hours of operation as per Erda Code 6-19-5</p>				C	

	regulations and may be further restricted by Conditional use permit.					
m	<u>Low-Impact Home-Based Business</u>	P	P	P	P	P
n	Home occupations	C1	C1	C1	C1	C1
n	<p>Preschool with the following conditions:</p> <ol style="list-style-type: none"> 1. All preschool activities shall take place inside the residence. The students shall remain in the home except when an outdoor activity is related to the child's education or arriving to school and leaving school. 2. 4. The inside area that is used as the preschool be made to conform to those standards of the current and any future updates of the building code for such a use. 	C1	C1	C1	C1	C1