

# **Title 9 – Land Management Code**

## **Chapter 10**

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#### **9-10-1: LOGGING AND TREE REMOVAL**

##### **A. Purpose:**

1. It is the intent of the town to preserve the natural environment and rural mountain town atmosphere, consistent with the General Plan, by preserving as many trees as is possible and reasonable. (2010 Code, amd. Ord. 15-004, 4-28-2015)
2. It is unlawful for any entity or person to log, harvest, cut down, remove, relocate, or cause any such to be done, or knowingly damage so as to require the cutting down or removal of any live tree with a diameter of six inches (6") or greater at a level of five feet (5') above the ground without a permit. Permits may be issued for the cutting down, relocation or removal of live trees in accordance with the Standards for Review delineated in 9-10-1(C). Relocation of trees will not count towards re-vegetation requirements. (2010 Code, amd. Ord. 15-005, 4-28-2015)

##### **B. Permits:**

1. Permits to cut down, relocate, or remove a tree as provided under this title shall be issued by the Town Manager, or designee. An applicant shall provide such information as the town deems necessary to adequately evaluate the permit application. (2010 Code, amd. Ord. 15-005, 4-28-2015)
2. The permit application shall be accompanied by the appropriate fee as indicated on the consolidated fee schedule and reviewed by the Town Manager, or designee, and any other staff deemed necessary to assist in application review.

- C. Standards For Review: Permit applications shall be reviewed pursuant to the following standards:
1. The intended removal or relocation of a tree will have an acceptable impact on flooding, snow slide and landslide hazards, watershed areas, spring protection zones, water runoff and erosion areas, public rights of way, wind breaks, and other trees and vegetation.
  2. The tree removal is necessary to eliminate or minimize disease, a danger of tree fall, danger to utility lines or structures, dangers to public rights of way, dangers to buildings or other structures, including fences or other trees, and will generally contribute to desired decrease in fire hazard in the forest.
  3. The removal of the subject tree will not significantly diminish the aesthetics or historical character of the site, adjoining properties or neighborhood.
  4. The removal or relocation of a tree is reasonably necessary for the development, installation or construction on the subject property or site, or is otherwise necessary or important to the reasonable use or enjoyment of the site property. This standard is not met unless and until a building permit, when applicable, has been issued and development of the property has been approved to proceed. (2010 Code, amd. Ord. 15-005, 4-28-2015)
  5. The removal or relocation of the subject tree is warranted by good forestry practice, including the consideration of the number, spacing and species of trees on the site or adjoining properties. Town staff may request the opinion of a qualified forester regarding the appropriateness of the selection of trees to be removed. (2010 Code, amd. Ord. 15-005, 4-28-2015)
  6. The privacy or architectural relationships between existing or planned structures on the site with other structures, trees or tree groupings shall be considered. (2010 Code, amd. Ord. 15-005, 4-28-2015)
  7. Full consideration has been given to the relocation, rather than removal, of healthy trees.
  8. Slash shall be removed, burned (with permit required), or chipped and utilized on site. (2010 Code, amd. Ord. 15-005, 4-28-2015)
  9. Re-vegetation and/or reforestation are considered and implemented where it is not in conflict with other Standards for Review. (2010 Code, amd. Ord. 15-005, 4-28-2015)
- D. Inspections: All tree removals shall be subject to inspection at all reasonable times by the Town Manager, or designee. The permittee shall notify the Town Manager, or designee, within three (3) business days of completion of the tree removal allowed under the permit.
- E. Security For Completion: The permittee shall furnish and file with the Town Clerk appropriate security pursuant to section [9-13-7](#) of this title. The security shall cover costs of cleanup, restoration and/or re-vegetation of the area where trees are to be removed.
- F. Expiration: Unless a shorter time is stated in the tree removal permit when it is issued, all tree removal permits shall expire six (6) months after they are issued. All activities required or allowed by the permit, including cleanup, must be completed while the permit is in effect. Except with regard to required re-vegetation, upon expiration of the permit, all tree removal activities shall cease, and a new tree removal permit must be obtained

by the applicant, before engaging in further tree removal activities. (2010 Code, amd. Ord. 15-005, 4-28-2015)

## **9 -10-2: GRADING & TRENCHING PERMIT:**

- A. Purpose: The purpose of a grading and trenching permit is to prevent unnecessary clearing of vegetation, to avoid detrimental alteration of drainage patterns, to eliminate unsafe slopes and soil instability, and to provide for safe and standardized utility location and installation practices. Grading permits will only be issued in conjunction with a building permit, when applicable, to reduce cases of lots being left unfinished.
- B. Notification and/or Permit Required: No person shall commence or perform any grading, filling (including spreading gravel), trenching, or clearing of land without first having notified the Building Department. Following notification, the Building Department may require a grading and trenching permit if it is determined that the proposed work will result in cleared vegetation (grubbing), alterations to natural or historical patterns of drainage, changes in slopes or soil stability, or changes to utility design or location. This section shall not restrict a soils test or utility location pit up to ten feet (10') in depth. Any person undertaking utility location shall comply with the applicable Blue Stakes regulations and standards. (2010 Code, amd. Ord. 15-005, 4-28-2015 amd Ord. 17-004, 7-11-2017)
- C. Review Process:
  - 1. Application Form: Application forms are available from and shall be submitted to the Building Department with the appropriate fee as outlined in the consolidated fee schedule. A list of additional information that may be required may be obtained from the Building Department.
  - 2. Application Packet: The applicant shall submit a permit packet, which includes: (2010 Code, amd. Ord. 15-005, 4-28-2015)
    - a. Site plan, showing surface drainage flow patterns, a report of subsurface investigation if it appears that there is a history or appearance of potential landslide or erosion that may be caused or exacerbated by the proposed grading or filling, and location of existing and proposed utilities;
    - b. Agent authorization to use the land if it is not owned by the applicant;
    - c. Quantities to be removed from or brought to the site;
    - d. Written explanation as to how the applicant will comply with this section regarding noise, dust, smell, safety and other nuisances;
    - e. Insurance and bond information (if work is to be in the public right of way);
    - f. Storm drain and erosion control plan;
    - g. Site restoration and vegetation plan;
    - h. Other information that will show how the operation will be conducted and site restored after use;

- i. In cases where earth material is to be stored on site for relocation to another site, the application shall identify the approximate quantity to be stored, the receiving site it will be permanently placed on, and a time frame by which it will be completed, not to exceed one year.
3. As built drawings: Drawings showing the final location of utilities installed shall be furnished to the building department for record purposes within thirty (30) days after the work is completed or forfeit any outstanding bonds. An extension period may be granted for a sufficient reason. (2010 Code, amd. Ord. 15-005, 4-28-2015)
- D. Town Review: The Building Department shall determine the adequacy of the application and may require the submission of further information where necessary. (2010 Code, amd. Ord.15-005, 4-28-2015)
- E. Inspections: All construction or work for which a permit is required shall be subject to inspection at all reasonable times by the Building Department. The Building Department may make any inspections of any construction work deemed necessary to ascertain compliance with the provisions of this chapter and other ordinances which are applicable. The permittee shall notify the Building Department at least twenty-four (24) hours in advance when grading reaches completion and prior to being covered or concealed by additional work. Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the Building Department may require, through written notice, that such work be exposed for examination. The work of exposing and recovering shall be an expense of the permittee requiring the inspection.
- F. Performance Bond: The town may require a performance bond in such form and amounts as may be deemed necessary to assure the work will be corrected to eliminate hazardous conditions. In lieu of a performance bond, the applicant may file a cash bond or instrument of credit with the town in an amount equal to that which would be required in the performance bond and in conformance with section [9-13-7](#) of this title.
- G. Security For Completion: Security in a form consistent with section [9-13-7](#) of this title and the accompanying agreement shall be completed prior to permit approval to ensure the cleanup and restoration of the permit area.
- H. Standards For Review: All grading, filling and clearing operations which are performed under this chapter shall be consistent with section [912-11](#) of this title, and shall be designed to:
  1. Minimize cuts and fills on steep or hazardous terrain. Ensure that all excavation work, including spoil piles, do not create an attractive nuisance or hazard to the general public.
  2. Eliminate scars from cuts and fills, and preserve the natural scenic beauty of the area, such as by rounding off sharp angles at the top, toe and sides of cut and fill slopes to preserve, match or blend with the natural contours and undulation of the land, and by retaining trees and other native vegetation.
  3. Limit clearing of vegetation or disturbances of the soil to areas of proven stability, taking into consideration geologic hazards and soil conditions, and ensure re-vegetation and restoration within one year of completing the grading work or after construction, where applicable. (2010 Code, amd. Ord. 15-005, 4-28-2015)

4. Assure that the natural runoff capacity of hillsides, slopes; graded areas, cleared areas, filled areas or streams shall not be exceeded causing flooding, erosion or silting. (2010 Code, amd. Ord. 15-005, 4-28-2015)
5. Utility construction and trench backfilling are in compliance with Standards & Specifications for Public Works Construction. (2010 Code, amd. Ord. 15-005, 4-28-2015)
6. If grading or clearing is being done in preparation for development, a building permit has been obtained and work has been approved to proceed or a performance bond has been secured sufficient to ensure that any scars on the land may be remedied. This provision shall apply only to residential zones. (2010 Code, amd. Ord. 15-005, 4-28-2015, amd. Ord. 19-001, 2-26-2019)

I. Discharge Prohibitions:

1. No solid or liquid materials shall be discharged into any creeks or streams, onto lands below the high-water level of the same, or onto adjoining property.
2. In order to prevent such discharges from occurring, approved erosion and silt control devices may be required for all grading and filling. Control devices and measures which may be required include, but are not limited to, the following:
  - a. Energy absorbing devices to reduce the velocity of runoff water.
  - b. Sedimentation controls such as desilting basins and catch basins. (Any trapped sediment shall be removed to a disposal site approved by the building department.) Dissipation or discharge of water runoff from developed areas into drainage fields to dissipate the runoff into the subsoil.
  - c. Multiple discharge points to reduce the volume of runoff over localized discharge area.
  - d. Physical erosion control devices (e.g., culverts, rock banks, etc.).
  - e. Approved temporary erosion and sedimentation control devices, facilities and measures shall be required during construction.

J. Waste Materials, Including Soil, Silt, Clay, Sand and Other Organic or Earthen Dust Control: Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on the site, the exposed surface shall be treated to eliminate dust arising from the exposed material. The Building Department must approve dust control methods.

K. Disposal Of Cleared Vegetation: Vegetation removed during grading or clearing operations shall be disposed of in a manner approved by the Building Department. See section [9-10-1](#) of this chapter.

L. Water Flow Diverters: The Town Engineer may require diverters, as necessary, at the top of all cut and filled slopes where there is a surface runoff potential.

M. Protection Of Non-constructed Areas:

1. There shall be no excavation on the site before the Building Department has approved the location (stakeout) of the drives, parking sites, building sites and other areas to be graded or filled.
  2. Construction equipment shall be limited to the actual area to be graded according to the approved plans. No vehicle of any kind shall pass over areas to be left in their natural state according to the approved plans.
  3. Appropriate barriers shall be placed around all native vegetation proposed for retention, trails, public rights of way, etc., as may be required to be erected during construction to prevent a hazard or damage to property or persons.
  4. The permittee shall be fully responsible for any damage caused to existing trees or other vegetation. The permittee shall carry the responsibility both for their employees and for any and all subcontractors from the first day of construction until the notice of completion is filed.
- N. Protection Of Any Existing Underground Public Utilities: The contractor shall ascertain and verify the location of any public underground utilities that may be on the property by contacting Blue Stakes, or other applicable agency, before doing any grading excavation. Once such are located, the permittee shall take reasonable care to protect and avoid damage to any such underground utilities by contacting Blue Stakes, or other applicable agency, for such utilities to be located. Any and all damage caused to public utilities by any act or negligence of the contractor's employees shall be repaired at the contractor's expense to the satisfaction of the utility company and the town.
- O. No Grading Near Historic Or Prehistoric Ruins:
1. No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic, prehistoric ruins, monuments or objects of antiquity are present.
  2. The grading plan shall indicate all such historic or prehistoric areas on the site and shall indicate the measures that will be taken to protect such areas. Should excavation uncover or discover any historic or prehistoric ruins or monuments or object of antiquity which were not known at the time of the submittal of the grading plan, all work in the immediate area shall cease until the Town Manager, or designee, shall determine what precautions should be taken to preserve the historic artifacts. (Ord. 08-016, 8-12-2008)

### **9-10-3: HORSE BOARDING:**

- A. Requirements:
1. Residential Horse Boarding:
    - a. Purpose: Residential horse boarding is intended to provide for short term, boarding of horses in an approved residential zone with adequate property size and in such a way as to limit any negative impact on adjoining properties and maintain the harmony

and residential character of the neighborhood. Short term shall mean no longer than ninety (90) days in a calendar year. (2010 Code, amd. Ord. 15-005, 4-28-2015)

- b. Horse boarding in a residential zone shall be allowed for a period of seven (7) continuous days with a maximum of fourteen days in a calendar year without the requirement of a conditional use permit. Any term longer than fourteen days shall require a horse boarding permit. (Ord. 15-005, 4-28-2015)
- c. Permitted Zones; Limitations: Horse boarding is permitted in an R-1 zone only, outside of any zone 1 and 2 water source protection zone and shall be subject to the following limitations: (2010 Code, amd. Ord. 15-005, 4-28-2015)
  - (1) A horse enclosure area shall have a fence structure of at least forty-two inches (42") in height and shall enclose at least one hundred forty-four (144) square feet per horse. Such enclosure area shall be located at least fifty feet (50') from any property line or residential structure.
  - (2) The horses shall be used for the riding/packing pleasure of the property owner and his guests and shall not be available to the public for hire.
  - (3) The site shall be maintained in a sanitary condition and shall conform to all public regulations. Appropriate fly control methods must be demonstrated.
  - (4) Drainage from the boarding area shall be maintained on the property and shall not be directed toward public street rights of way, adjoining property or any creek or stream.
  - (5) Each animal's physical description, together with its owner's name and phone number, shall be filed with the public safety department so that the owner may be contacted in the event of escape or other emergency.

2. Commercial Horse Boarding Permit:

- a. Purpose: A commercial horse boarding permit is intended to allow for the boarding, riding and enjoyment of horses on a for hire, commercial basis in such a way as to not create a negative or detrimental impact on associated properties, and to maintain the harmony and character of the zone.
- b. Permitted Zones; Limitations: A horse boarding permit issued in ROS, GC and LI zones shall be subject to the following limitations:
  - (1) The property owner shall send a request by certified mail to each adjoining property owner within three hundred feet (300') of the boarding corral/structure. If the adjoining property is owned by multiple owners (i.e., a condominium development, etc.), the notice shall be mailed to each individual property owner.
  - (2) A horse enclosure area shall have a fence structure of at least forty-two inches (42") in height and shall enclose at least one hundred forty-four (144) square feet per horse. Such enclosure area shall be located at least fifty feet (50') from any property line or occupied structure.
  - (3) The site shall be maintained in a sanitary condition and comply with all town, county, state and federal applicable rules and regulations.

- (4) Drainage from the boarding area shall be maintained on the property and shall not be directed toward public street rights of way, adjoining property or any creek or stream.
  - (5) A commercial horse boarding operation must have a current valid business license.
- B. Revocation Or Discontinuance: A boarding permit may be revoked by the town after an opportunity for a hearing if the provisions of this section or the limitations prescribed as a condition of the permit are being violated, or if the horses are not being properly cared for as determined by the state Humane Society guidelines or in violation of the Town Nuisance Ordinance. A permit shall become void if not used within one month from the date of issuance.
- C. Appeal: Any resident or property owner may file with the Appeal Authority an appeal of any action of the town staff in connection with issuance or denial of a boarding permit, or the conditions attached thereto, within ten (10) days following such action. In the event of appeal, the Appeal Authority, after receiving a report from the town staff, may confirm, reverse or modify the action of the town staff. A public hearing shall not be required. (Ord. 08-016, 8-12-2008)

#### **9-10-4: TEMPORARY CONCRETE BATCHING FACILITIES:**

- A. Purpose: The purpose of this section is to allow temporary concrete batch plants to be erected and used during a limited time of the year, on any property that conforms to these requirements, to provide concrete batching facilities in the town where industrial zoned land is unavailable for such use. The batch plant shall be associated with an assigned building permit of a chosen project to limit the time it can be in use and shall be located on-site. This license does not exclude the batch plant from delivering concrete to other projects on a commercial basis. This permit does not grant any vested rights for this use to the property it is located on.
- B. Permits
  - 1. A permit shall be required for any concrete batch plant that is erected or conducted within the town limits if it:
    - a) Loads any type of truck or equipment with concrete materials for the purpose of delivering them on site or to another location for final use;
    - b) Stores concrete materials or equipment, such as sand, gravel, cement powder, water, delivery trucks or equipment, batching equipment or anything related to the process.
  - 2. A permit is not required when concrete batching is conducted in quantities of less than one cubic yard at a time (delivered in bags, or small bulk quantities), to be used only in the location of the batching, and not delivered to any off-site location.

3. The Town Manager, or designee, shall review all applications submitted under this section and ensure that the application and the operation represented thereby strictly complies with each requirement of this section and will not create a nuisance, negative effect or safety hazard on the proposed site, surrounding property or to the citizens of the town. The Town Manager, or designee, shall have the authority to approve, deny or revoke any application or permit obtained under this section.
- C. Permit Application: The applicant shall submit a permit packet, which includes:
1. Permit application.
  2. Site plan
  3. Agent authorization to use the land if it is not owned by the applicant.
  4. List of materials to be stored on the property, along with quantities.
  5. List of equipment to be used on the site for delivery of raw materials, loading and processing of concrete, and delivery and placement of concrete materials.
  6. Written explanation as to how the applicant will comply with this section regarding noise, dust, smell, safety and other nuisances.
  7. The source of water to be used for concrete batching.
  8. Restroom facilities.
  9. Insurance and bond information.
  10. Town indemnification agreement.
  11. Storm drain and erosion control plan.
  12. Site restoration plan.
  13. Other information that will show how the operation will be conducted, and site restored after use.
- D. Inspections: All approved permit locations shall be subject to inspection at all reasonable times by the Town Manager, or designee. The permittee shall notify the Town Manager, or designee, within three (3) business days of completion of the project and removal of the equipment under the permit.
- E. Permit Standards:
1. The operation may be located on town owned or leased property deemed fit by the Town Council for such facilities. The license shall be tied to one single building permit only, but may be transferred to another permit, one time only.
  2. The facility shall only be operational from May 1 until November 1 of any given year, weather permitting. The town staff may grant a one-month extension, weather permitting.
  3. Operation of equipment, trucks and motors shall only be conducted between the hours of seven o'clock (7:00) A.M. to eight o'clock (8:00) P.M.
  4. The facilities shall be maintained in a clean and orderly condition and the operator of the facility shall ensure that all dust, dirt, mud and excess water from any material, trucks, land, roads and facilities leading to, from and on the facility, site are controlled.

5. No structure or portion of the facilities or any equipment used in connection with the facilities or their operation shall exceed fifty feet (50') in height above natural grade. The facilities shall be completely fenced and locked during nonbusiness hours. All hazardous materials stored on site must be properly contained and legally disposed of.
6. At the time of filing its application for approval of a facilities site and operation, the operator shall file with the town a security bond or deposit in the amount of twenty-five thousand dollars (\$25,000). This is to ensure the operation of all facilities in compliance with this section, ensuring cleanup and restoration of the property upon which the facilities are to be located, and ensuring that the operator pay for any damages to private or public property or improvements which result in any way from the operation of or related to the facilities. Interest earned from the cash deposit will accrue to the benefit of the applicant. (2010 Code, amd. Ord.15-005, 4-28-2015)
7. At the time of filing its application for approval of a facilities site and operation, the operator shall provide the town with proof of general liability insurance in the sum of one million dollars (\$1,000,000.00) per occurrence, naming the town as an additional insured. Such insurance shall not be subject to cancellation except upon thirty (30) days' prior written notice to the town.
8. The lot, property or parcel of land on which the facilities are to be located or operated shall be large enough to accommodate all facilities, equipment, concrete trucks, vehicles and employee vehicles. No public roads may be used for any part of or for any use associated with the facilities or their operation. No tree removal permit shall be issued to accommodate facility. (2010 Code, amd. Ord. 15-005, 4-28-2015)
9. The operator shall be required to meter all water used with regard to the facilities or their operation and shall pay to the town, as required by the town, the rate established by the town for bulk water sales.
10. Facilities shall be allowed and permitted by the town on a first come, first served basis. No more than three (3) concrete batching plants shall be allowed or permitted within the town boundaries at any one time.
11. Any facilities or operations proposed to be located within any well protection zone shall submit with their application a plan specifically identifying the measures which will be taken to protect against contamination of the well protection zone or the associated water or water source. The operator of any facility or operation approved for location within any well protection zone shall agree in writing, prior to the application being approved, to pay any and all costs and damages incurred as a result of any contamination of such well protection zone or the associated water and water source.
12. A facility shall identify and follow a plan to protect adjoining properties and the general citizenry from unreasonable nuisances and hazards relating to the operation of the batch plant in comparison to typical construction processes or similar process that may become an attractive nuisance.

13. An adequate number of temporary restroom and construction material container facilities shall be located on the facility site and shall be properly and regularly serviced and maintained. (Ord. 08-016, 8-12-2008)

#### **9-10-5: HOME OCCUPATIONS:**

- A. Purpose: It is the purpose and intent of this section to allow persons residing (either full-time or part-time) in dwellings to use their mental or physical expertise and talent in providing a service, developing a product for sale to the public, operating certain kinds of small businesses or maintaining a professional or business office work space in the dwelling, or in an attached or detached garage or accessory building, or yard space, while at the same time maintaining the peace, quiet and domestic tranquility within all residential areas of the town. The Town recognizes that many professional services (such as snow removal and bulk water hauling) are needed for the property functionality of a mountain resort town, and it is in the best interest of the Town and its residents to allow such services to operate from a residential zone in order to increase the likelihood that such services will be offered locally so long as they don't materially alter the character of the zone. Notwithstanding the Town's willingness to consider allowing these services and businesses to be operated as home occupation in residential zones, all home occupations shall be clearly accessory and subordinate to the principal use of the property for dwelling purposes. (amd. Ord. 21-001, 1-12-21)
- B. Permitted Standards For Home Occupations When Conducted Entirely Within Residence: The following standards shall be observed in the operation of all home occupations to be approved by town staff:
  1. The home occupation shall be conducted primarily by residents (either full-time or part-time) of the premises. A home occupation may have employees; however, only one employee who does not live in the home may come to the home at any one time for purposes of employment. One additional off-street parking stall shall be provided for any employee coming to the home who is not a resident of the premises. (amd. Ord. 21-001, 1-12-21)
  2. The home occupation shall not physically change the dwelling or yard space to the extent that it would alter the residential or aesthetic character of the dwelling, yard or neighborhood.
  3. The home occupation shall be allowed one nameplate sign, which shall be consistent with [chapter14](#) of this title. Temporary signs shall not be permitted for home occupations.
  4. The home occupation shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the zone in which the use is located, as determined by the zoning administrator and appropriate regulatory authorities. "Occupancy load", as defined by the currently adopted building code, shall not be exceeded.

5. The home occupation shall not cause a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential use, as determined by the Zoning Administrator and appropriate regulatory authorities.
  6. Sale of commodities produced on the premises shall be permitted. The sale of all commodities shall be by prior individual invitation only.
  7. Home occupations shall conform to business license requirements of title 3 of this code.
  8. There shall be complete conformity with all applicable Town, County, State and Federal laws and ordinances.
- C. Conditional Use Standards For Home Occupations Using Attached Or Detached Garages, Accessory Structures Or Yard Space: The following standards shall be observed in the operation of all home occupations using garages, other accessory structures or yard space, which shall be approved by conditional use, in addition to the standards specified in subsection B of this section:
1. An occupation may be considered as a conditional use only under the following conditions:
    - a. The Planning Commission finds that the proposed home occupation will be clearly accessory and subordinate to the principal use of the property for dwelling purposes; and
    - b. The Planning Commission finds that the proposed home occupation will not adversely affect the residential nature and aesthetic quality of the neighborhood; and
    - c. Any off-street parking displaced by the home occupation is relocated elsewhere on the lot or parcel; and
    - d. The Planning Commission may impose any conditions it deems necessary to mitigate impacts of the home occupation on the neighborhood.
  2. In determining whether to grant a conditional use approval for the use of an attached or detached garage, accessory structure or yard space for a home occupation, the Planning Commission shall consider the effect of such use on the residential character of the property upon which the home occupation is proposed to be located. In making a determination, the Planning Commission may consider factors including, but not limited to:
    - a. Displacement of normally residential functions of yard space and building or structure usage.
    - b. The potential for generation of noise, dust, vapors, fumes, odors and light.
    - c. The potential for generation of excess traffic.
    - d. The potential impact of the proposed home occupation on the aesthetic quality of the neighborhood and the property upon which the home occupation is proposed to be located.

3. Due to the special nature of home occupations, their potential to create adverse impacts to the neighborhood, and the potential for significant unforeseen impacts to occur, the Planning Commission reserves the right to review any home occupation granted conditional use approval pursuant to this subsection. The conditional use permit for the home occupation may be reviewed and modified or revoked by the Planning Commission due to failure of the owner or operator of the home occupation to observe all conditions specified in issuing the permit; failure to observe the purpose and intent of this section or other requirements of this title in regard to the maintenance of improvements and conduct of the home occupation as approved; or significant unforeseen impacts resulting from the operation of the home occupation in conflict with the purpose and intent of this section and as explained in the application.
- D. Permitted Uses: Home occupations which may be considered under subsection B of this section may include the following uses, or uses which are similar in character, origin or impact, as determined by the Building Official/Zoning Administrator:
- Animal grooming services conducted entirely within the home.
  - Architectural service.
  - Artist, author.
  - Barber shop, beauty service.
  - Childcare services in compliance with state and federal standards.
  - Consulting service.
  - Craft sale.
  - Dance studio; aerobic exercise, music lessons, tutoring and general educational instruction.
  - Data processing, computer programming.
  - Direct sales distribution.
  - Food preparation in compliance with state and federal standards.
  - Garden plants and produce.
  - Home crafts.
  - Insurance sales or broker.
  - Interior design.
  - Janitorial service.
  - Mail order (not including retail sales from site).
  - Real estate sales or broker.
  - Sales representative.
- E. Conditional Uses: Home occupations which shall not be considered under subsection C of this section include the following uses, or uses which are similar in character, origin

or impact, as determined by the Building Official/Zoning Administrator: (2010 Code, amd Ord. 21-001, 1-21-21)

Agricultural uses (not involving the keeping of animals) that use more than twenty-five percent (25%) of the area of the lot when the lot is less than one acre in size. (2010 Code, amd Ord. 21-001, 1-12-21)

Kennel, animal hospital.

Machine shop.

Light Manufacturing.

Secondhand shops and pawnshops.

Storage and warehousing.

Uses which involve the storage, display or repair of motor vehicles, or body and fender work on such vehicles. (Ord. 08-016, 8-12-2008)

Snow Removal Services (Ord. 15-018, 12-8-2015)

Water Transport Services (Ord. 15-018, 12-8-2015)

(amd. Ord. 17-004, 7-11-2017).

#### **9-10-6: BURN PERMITS:**

- A. Purpose: Burn permits are intended to act as a notification process to public safety personnel and dispatchers of scheduled burn operations to avoid unnecessary dispatching of fire crews, and to review the proposed burn in order to establish controls and safe practices for the preservation of life and property.
- B. Opening Burning And Recreational Fires: Open burning and recreational fires shall be done in compliance with the international fire code as currently adopted by the state, Utah Code Annotated [Title 11, chapter 7](#), and any current town public safety burn policy as enacted for general public safety.
- C. Issuing Burn Permits: A burn permit or town public safety approval is required prior to any open burning or recreational fire by contacting the town Public Safety office or County Dispatch. (Ord. 08-016, 8-12-2008)

#### **9-10-7: TEMPORARY STRUCTURES AND TENTS**

- A. Prior to the issuance of an Administrative Permit for any temporary structure, tent or vendor, the following requirements shall be met.
  - 1. APPLICATION. An Application must be submitted to the town including the following information:
    - a. Use. A temporary structure used in accordance with these provisions may be erected in any zone if the use is consistent with the permitted uses of that zone or conditional uses as approved under Section 9-11-2.

- b. General Description. An overview of the proposed activity. Include hours of operation, anticipated attendance. Use of speakers, beer or liquor licenses, any sign or lighting plan, and any other applicable information.
- c. Site Plan. The site plan shall be scale indicating in detail how the proposal will comply with the International Building Code (IBC). It should indicate the location of the tent or temporary structure on the property and distances from property lines and other structures. A separate plan for the interior of the tent or temporary structure is required. This plan will indicate any chairs, tables, exits, sanitation, heating, food services/handling etc. A snow removal plan must be included.
- d. Structural Information and Calculations. For all temporary structure greater than 200 sq. ft. in floor area, structural calculations, wind and snow load information, fire rating, etc. must be submitted.
- e. Fees. All applicable fees.
- f. Building Permit. A permit issued by the town is required for temporary structures greater than 200 sq. ft. in area, or as determined by the Chief Building Official upon review of size, materials, location, weather and proposed use.
- g. Special Event Permits. See Section 3.3 for regulations related to special events.
- h. Duration. In no case shall a tent be installed for a duration longer than twenty-one (21) days and for more than five (5) times per year on the same property or site, unless a longer duration or greater frequency is approved by the Planning Commission consistent with condition use criteria in Section [9-11-2](#) and Design Standards in Section [9-12](#).

2. Review Criteria:

- a. Lease agreement with Brian Head Town.
- b. The use shall not violate the health or fire code regulations or any state regulations on mass gatherings.
- c. The use must meet all applicable International Building Code (IBC) requirements.
- d. The application shall adhere to all applicable town and state licensing ordinances.
- e. If the proposed use is on private property, the applicant shall provide written notice of the property owner's permission.
- f. Any net loss of parking shall be reviewed and if necessary, mitigated.
- g. The proposed use shall not impede pedestrian circulation, emergency access, or any other public safety measure.
- h. The use shall not violate the town noise ordinance.
- i. The Use and all signing shall comply with the municipal sign and lighting codes. (Ord. 15-005, 4-28-2015)
- j. Temporary structures must be consistent with the design standards contained in Chapter 12 of this title. Tents are exempt from roof and external wall material design standard. (Ord. 17-004, 7-11, 2017)

