

Ordinance 2021-2

Zoning Ordinance Amendments

WHEREAS The Town of Boulder is empowered to adopt land use regulations by Utah law;

WHEREAS questions and concerns about the quality of future commercial development have led the Town's Planning Commission to propose significant amendments to the existing land use regulations;

WHEREAS the Planning Commission's proposed amendments have been available for public review comment at public work sessions and regular meetings for the past several months, and at a properly noticed hearing conducted on January 14, 2021; and

WHEREAS these proposed amendments are supported by and consistent with the Town's General Plan, as it was recently amended:

Be it hereby ordained that the Boulder Zoning Ordinance is amended as follows. Deletions from the current text of the zoning ordinance are struck through: ~~deletion~~. Additions to the current text of the zoning ordinance are underlined: addition.

Amend Chapter 6 – Establishment of Zoning Districts, as follows:

Section 602 Zoning Districts Purpose:

5. Commercial District (C). Boulder Town provides the Commercial (C) District to allow a variety of retail commercial, office, and light industrial activities within the Town to meet the needs of residents and visitors, to provide employment opportunities for residents, and to strengthen and provide diversity to the local economy. As explained in 7.5 of the 2021 amendments to Boulder's General Plan, this Commercial District is no longer in use. It is retained only to provide a regulatory framework for those uses that were approved within it.

Section 603 Table of Uses:

1. The Table of Uses (Table 1) identifies the uses allowed within each Zoning District ~~of the Town~~. The Table of Uses identifies uses allowed as a Permitted Use (identified as "P" in the ~~Table of Uses~~), for which only administrative permits are required; uses allowed as upon approval of a Conditional Use Permit (identified as "PC, Potentially Compatible" ~~in the Table of Uses~~); and uses allowed as a Temporary Use (identified as "T" ~~in the Table of Uses~~). The Table of Uses is accompanied by "Use Definitions identifying the definition for each use allowed by this Ordinance for various uses may be found in Chapter 20.
2. All uses not specifically identified as ~~either a Permitted Use, Potentially Compatible (permitted with a Conditional Use Permit), or Temporary Use~~ within a zoning district are prohibited there, as are all or a uses that are not specifically identified or defined-listed in Table 1. are hereby deemed to be Prohibited Use in the Zoning District. ~~Table of Uses~~ Cells that are left blank in the Table of Uses

indicate the use is a prohibited Use in the particular zoning district, though the use may be allowed in other zone(s) zoning districts.

Section 603, Table 1, Table of Uses

<u>use</u>	<u>zoning district</u>				
	<u>GM</u>	<u>LDR</u>	<u>MDR</u>	<u>HDR</u>	<u>C</u>
<u>Accessory Dwelling Unit for Employees</u>	<u>PC</u>				
<u>Accessory Dwelling Unit for Rental</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>See Section 602.5</u>
<u>Accessory Dwelling Unit - Guest</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Accessory Use or Building</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Agriculture, Agricultural Buildings</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Bed and Breakfast Inn</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	
<u>Borrow Pit</u>	<u>PC</u>				
<u>Cemetery</u>	<u>PC</u>	<u>PC</u>			
<u>Church</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	
<u>Commercial Use</u>	<u>PC</u>				
<u>Community Market (Farmer's Market)</u>	<u>T</u>				<u>T</u>
<u>Concrete Plant, in existing gravel pit</u>	<u>PC</u>				
<u>Day Care/Preschool Center</u>	<u>PC</u>				
<u>Developed Campsite</u>	<u>PC</u>				
<u>Farmstand</u>	<u>T</u>				<u>T</u>
<u>Guest Ranch</u>	<u>PC</u>				
<u>Home Child Care</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Home Business</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	
<u>Licensed Family Child Care</u>	<u>P</u>	<u>P</u>	<u>P</u>		
<u>Long Term Temporary Use</u>	<u>T</u>	<u>T</u>	<u>T</u>	<u>T</u>	<u>T</u>
<u>Mobile Food Business</u>	<u>PC</u>				
<u>Public Uses and Utilities</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	
<u>RV Parks and Campgrounds</u>	<u>PC</u>				
<u>RV or Mobile Home as Temp Residence</u>	<u>T</u>				
<u>Residential Day Care Certificate</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Residential Facility for Elderly</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Residential Short Term Rental</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	
<u>School</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	
<u>Single Family on a lot of record</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Special Events</u>	<u>T</u>	<u>T</u>	<u>T</u>	<u>T</u>	<u>T</u>
<u>Wireless Telecommunication Facilities</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>

A blank cell indicates that the use is prohibited in that zoning district.

Section 604 Use Definitions: This entire section is repealed and subsequent sections renumbered accordingly. The definitions formerly given here are moved to Chapter 20 so that all definitions are in one place.

Section ~~606~~ 605, Off-Street Parking Requirements, Notes Accompanying Table of Off-Street Parking Standards. Delete Item 4, which is now covered in Chapter 22, in its entirety. Renumber subsequent sections of the notes accordingly.

Amend Chapter 8 – Conditional Use Permits, as follows:

Section 801 Issuance ~~and Purpose:~~ ~~A Conditional Use Permits (CUP) may be issued as provided by this ordinance for any of the uses identified as a Conditional Use Potentially Compatible in the Table of Uses adopted in Chapter 6. The purpose of the issuance of a Conditional Use permit is to allow the proper integration of uses that may be suitable only if such uses are designed, arranged, or conducted in a particular manner.~~

Section 802 Applications, Public Hearing Required, Planning Commission Authorized to Render Conditional Use Decisions:

1. All requests ~~applications~~ to establish for a CUP, as identified as a Conditional Use in the Table of Uses or to including the construct any associated buildings, shall be made on the ~~application~~ form provided by the Town and ~~include~~ be accompanied by a site development plan that complies with the requirements of Section 803, below, and any additional requirements of this ordinance. Applications that do not include a complete site development plan will not be accepted.
2. The Planning Commission is authorized to render a final decision on the issuance of applications for a CUP. Prior to rendering any final such a decision on the issuance of a CUP, the Planning Commission shall conduct a properly noticed public hearing to receive comment and input on the application.

Section 803 Site Development Plan Requirements:

Subsections 1-10 remain as they are.

11. Commercial Site Development Plans shall also be required to ~~provide~~ include all other materials identified in Section 1013(1) needed to demonstrate compliance with the requirements of this ordinance, specifically including compliance with the standards of Chapters 10, 21, and 22.

~~Section 804 Conditions for Approval:~~ Repeal Section 804 in its entirety, as it is replaced by Chapters 21 and 22. Renumber the sections that follow accordingly.

Section 805 ~~804 Required Findings for Approval or Denial of a Conditional Use Permit Application by the Planning Commission:~~

~~1. As required by the Act, If the Planning Commission finds that ~~the a~~ proposed Potentially Compatible use CUP application complies with all the requirements of this ordinance, specifically including, but not limited to, the standards of Chapter 21 or 22, whichever is applicable, as adopted, and all other Land Use Ordinances and requirements, as applicable requirements, with or without reasonable conditions being proposed, or may be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Conditional Use, it shall approve the application for a CUP shall be approved.~~

2. In approving a CUP, the Planning Commission may impose any conditions needed to ensure compliance with the applicable standards. All conditions imposed must be clearly designed to ensure compliance with a specifically cited standard or standards of this ordinance.

~~3. Following the approval of a CUP Application by the Commission, with or without reasonable conditions, the Applicant may apply for any other necessary approvals, licenses, or permits necessary to implement the CUP approval.~~

~~4. As required by the Act, If the Planning Commission finds that ~~the reasonably anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable, a proposed Potentially Compatible Use does not comply with the standards of this ordinance, specifically including, but not limited to, the standards of Chapter 21 or Chapter 22, whichever is applicable, the application for a CUP may shall be denied. If a CUP is denied by the Planning Commission, no other approvals, licenses, or permits shall be approved that are related to the proposed Conditional use shall be approved or issued.~~~~

Section ~~806~~ 805 Revocation or Modification of a Conditional Use Permit: ~~If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the Commission shall conduct a public hearing on the question of modification or revocation of a conditional use permit granted under the terms of this Ordinance. A CUP may be modified or revoked by the Planning Commission if the Commission following a properly noticed public hearing at which the Planning Commission finds that one or more of the following conditions exists:~~

- ~~1. The CUP was obtained in a fraudulent manner or there has been a significant change in the use as it was represented in the application for a CUP.~~
- ~~2. The use for which the CUP was granted has now ceased for at least six (6) consecutive calendar months.~~
- ~~3. The use is not in continuing compliance with one or more of the applicable standards of this ordinance.~~

4. One or more of the conditions of imposed on approval of the CUP has not been met.

~~Additionally, the Commission, following the public hearing, may modify the conditions under which a conditional use permit was originally approved if the Commission finds that the use or related development constitutes or is creating a nuisance.~~

Amend Chapter 9 – Temporary Use, as follows:

Section 902 Applications. Zoning Administrator Authorized to Render Temporary Use Decisions: All requests for a Temporary Use Permit shall be made on the ~~application~~ form provided by the Town. The Zoning Administrator is authorized to render a final decision on the issuance of a Temporary Use Permit upon a finding of compliance with all applicable requirements of this ordinance, specifically including, but not limited to, the requirements of Chapter 22, the adopted Building Code, and all Health Codes, as applicable. Approval of a Temporary Use Permit may be subject to conditions, as provided in Section 905.

Section 903 Allowed Temporary Uses: The following uses and activities may be permitted by the Zoning Administrator with a finding that the Temporary Use will be conducted in compliance with all the requirements of this ordinance:

1. a use proposed to be established for a maximum period of 120 days, such use being discontinued after the expiration of 120 days.
2. special events, for a period not to exceed 45 days, including;
 - a) ~~non-profit~~ fund-raising activities conducted by a registered non-profit organization.
 - b) organized events, educational, historic, religious and patriotic displays or exhibits, including concerts, athletic or recreational events, festivals, street fairs, arts and crafts fairs, and other organized events.

Section 904 does not change.

Section 905 Conditions May Be Imposed: The Zoning Administrator may condition approval of a Temporary Use Permit on:

1. submission and approval of a parking plan that shows how adequate parking for the proposed temporary use will be provided using existing parking areas and/or temporary parking areas that have safe access from a public road and will be properly managed to avoid creating traffic congestion, dust, and other nuisances; and/or
2. submission and approval of a solid waste management plan showing in detail how solid waste generated by the proposed temporary use will be collected, stored, and removed, and/or

3. submission of a sanitation plan showing in detail how any need for restroom facilities generated by the proposed temporary use will be met, and/or
4. submission and approval of a plan that clearly shows how any signs associated with the temporary use will comply with the requirements of Chapter 10.
5. The Zoning Administrator may refer any application for a Temporary Use Permit to the Planning Commission at any regular meeting. The power to approve the permit will remain with the Zoning Administrator. The purpose of such a referral will be to seek informal comments and recommendations.

Amend Chapter 10 – General and Supplementary Development Standards, as follows:

Section 1013 Supplementary Requirements: Delete 1. Commercial Design Standards in its entirety, renumber the other sections, accordingly.

Amend Chapter 12 – Sensitive Lands, Hillside, and Mesa Tops Protection Overlay District, as follows:

Section 1201 Purpose and Intent: The Sensitive Lands, Hillside, and Mesa Tops Overlay Protection District shall apply to all lands identified to be sensitive by this Section. This District identifies additional development requirements for areas identified as Sensitive Lands, Hillside, and Mesa Top areas. The uses allowed by the underlying or base ~~zone~~ zoning district shall still apply, except that no commercial uses shall be permitted.

Amend Chapter 20 – Definitions, as follows: All definitions from Chapter 6 will be moved into Chapter 20, in alphabetical order, but only those, whether from Chapter 6 or that were already in Chapter 20, that will be changed are shown here. Some new definitions are also included.S

Absolute Standard. A standard adopted in Chapter 21 or 22 of this ordinance with which a proposed home business or commercial development must comply in order to receive a CUP.

Home Occupation Business: ~~An activity carried out for gain by a resident and conducted entirely within the resident's home and/or a separate building of no more than 750 square feet and is clearly incidental and accessory to the residential use of the dwelling or property and provided that the home occupation does not change the residential character of the residence and does not result in noise, vibration, light, odor, dust, smoke, or other air pollution noticeable at or beyond the property line, does not include any outside storage of goods, materials, or equipment, has no signage, complies with all required Federal and State licensing requirements, complies with all required Local licensing requirements. A 'home business' is an industrial or commercial activity~~

that is conducted in a dwelling or in an accessory structure that is appurtenant to a dwelling, and that complies with the standards of Chapter 21 of this ordinance.

Commercial is the generic term this ordinance uses to refer to the conduct of business, including, but not limited to, retail sales, the provision of services, and industrial activities. By itself, this term tells one nothing about which commercial uses are or are not permitted. Please refer to the table of uses and standards established by Chapter 6 of this ordinance. Standards that apply to “commercial” uses apply to all of them, except when a specific use is specifically exempted. This term specifically encompasses more specific terms that were used in the ordinance prior to the 2021 amendments, including automotive care, commercial sales and services, lodging, professional offices, recreation facilities, restaurants, and veterinary clinics.

Compatible. Compatible does not mean identical or even nearly the same. That two things are compatible means that they are able to exist together without conflict, that they are reconcilable.

Home Child Care: Note that Utah State regulations provide the following exemptions for child care: License or Certificate and Background Check Not Required. (1) The following types of care do not require a child care license or certificate form, or the submission of background check documents to the Department: (a) Care provided on no more than two days during any calendar week; (b) Care provided in the home of the provider for less than four hours per day, or for fewer than five unrelated children in the home at one time; (c) Care provided in the home of the provider on a sporadic basis only.

~~**Home Day Care:** The care for children who are family and non family members in an occupied dwelling, and complying with all State standards and licensing, by the resident of that dwelling at least twice a week for more than three (3) children, but fewer than nine (9) children. The total number of children being cared for shall include children under the age of four (4) years residing in the dwelling, who are under the supervision of the provider during the period of time the childcare is provided. When a caregiver cares for only three (3) children under age two (2), the group size, at any given time shall not exceed six (6).~~

~~**Hotel:** A building offering transient lodging accommodations to the public and which may provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities. A hotel shall have no more than 30 guest rooms. See Lodging.~~

Facade: Any portion of a building that faces or is visible from a public way or from a parking lot. Includes walls and all apertures, also any visible element of the roof.

Industrial is the generic term this ordinance uses to refer to the processing, manufacturing, assembly, and/or distribution of goods or products and/or the collection and processing of wastes. By itself, this term tells one nothing about which industrial uses are or are not permitted. Please refer to the table of uses and standards established by Chapter 6 of this ordinance. Standards that apply to “industrial” uses apply to all of them, except when a specific use is specifically exempted. For the purposes of this

ordinance, industrial uses are regulated as commercial uses. The raising of crops or livestock is not industrial for the purposes of this ordinance.

~~Intermediate Secure Treatment Facility/Program for Minors:~~ ~~A 24-hour group living environment for four (4) or more individuals unrelated to the owner or provider, and is established and operated as required by the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Intermediate Secure Treatment Programs, in a facility designed to physically restrict minors' ability to leave the program at their own free will. An Intermediate Secure Treatment Facility/Program offers room and board and provides for or arranges for the provision of specialized treatment, rehabilitation, or habilitation services for children and youth. In secure treatment, each consumer is assisted in acquiring the social and behavioral skills necessary for living in the community.~~

Licensed Family Child Care: The care of children who are non-family members in an occupied dwelling. Utah State License Required (1) A person or persons shall be licensed under this rule if they provide child care: (a) in the home where they reside; (b) in the absence of the child's parent; (c) for 5 to 16 unrelated children; (d) for 4 or more hours per day; (e) on a regularly scheduled, ongoing basis; and (f) for direct or indirect compensation.

Lodging: A building or group of buildings containing guest rooms, some or all of which may have a separate entrance leading directly from the outside of the building with a garage or parking space located on the lot and designed, used or intended wholly or in part for the accommodation of automobile transients visitors. The facility Lodging places may also provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities. A lodging facility shall have no more than 30 guest rooms. Bed and breakfast inns and short term rentals are separately defined and regulated.

~~Motel:~~ ~~A building or group of buildings containing guest rooms, some or all of which have a separate entrance leading directly from the outside of the building with a garage or parking space located on the lot and designed, used or intended wholly or in part for the accommodation of automobile transients. A motel shall have no more than 30 guest rooms.~~

Operating Hours. Operating hours include all hours a business is in operation, not just those when it is open to the public.

Public Uses and Utilities: A use operated exclusively by a public body or quasi-public body, such use having the purpose of serving the public health, safety or general welfare, and including recreational facilities, administrative and service facilities, and public utilities, including water and sewer facilities, gas and electricity facilities, recycling and waste management, cable television facilities and telecommunications facilities, but excluding airports and prisons, and animal control facilities. Proposed public facilities, including significant changes in or additions to existing facilities require a CUP.

Recreational Facility: ~~A place, either indoor or outdoor, designed and equipped for the conduct of sports and/or leisure time activities. Emphasis shall be on public facilities, including multiple use community centers which have recreation as one of their primary purposes, but excluding race tracks, amusement parks, major sports arenas, exhibition areas and conference halls used primarily for commercial sports, spectator, or display activities.~~

Relative Standard. A standard adopted in Chapter 21 or 22 of this ordinance on which the performance of a proposed home business or commercial development receives a point score as part of the Planning Commission's review of the application for a CUP. These standards are used to encourage or discourage certain development practices that are not absolute requirements, but part of the trade-offs that must be considered. A proposed development must receive a score of zero or better on the relative standards in order to obtain a CUP.

Residential Day Care Certificate: The care for children who are family and non-family members in an occupied dwelling, and complying with all State standards and licensing. Utah State Certificate Required (1) A person or persons shall be certified as a residential child care provider under this rule if they provide child care: (a) in the home where they reside; (b) in the absence of the child's parent; (c) for 5 to 8 unrelated children; (d) for 4 or more hours per day; (e) on a regularly scheduled, ongoing basis; and (f) for direct or indirect compensation.

Residential Treatment Facility/Program: ~~A 24 hour group living environment for four (4) or more individuals unrelated to the owner or provider and operated in accordance with the requirements of §62A-2-101,17, Utah Code Annotated, 1953, as amended, and the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Residential Treatment Programs. A Residential Treatment Facility/Program offers room and board and provides for or arranges for the provision of specialized treatment, rehabilitation, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies. In a Residential Treatment Facility/Program consumers are assisted in acquiring the social and behavioral skills necessary for living in the community in accordance with §62A-2-101,17, Utah Code Annotated, 1953, as amended.~~

Residential Short-Term Rentals (RSTR): Occupancy of a dwelling on a single-family legal lot of record by a transient guest(s) renting the entirety of the dwelling, or any portion thereof, for any period between 1 to 29 consecutive nights pursuant to a Conditional Use Permit (CUP).

Residential Support Facility/Program: ~~A 24 hour group living environment, providing room and board for four (4) or more consumers unrelated to the owner or provider in accordance with §62A-2-101,16, Utah Code Annotated, 1953, as amended, and the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Residential Support Programs. A Residential Support Facility provides the necessities of life as a protective service to individuals or families who are experiencing a dislocation or emergency which prevents them from~~

~~providing these services for themselves or their families. Treatment is not a necessary component of Residential Support; however, treatment shall be made available on request.~~

~~**Resort:** A facility that serves as a destination point for visitors and generally has recreational facilities for the use of guests and may include residential accommodations for guests. Guest residency is limited to no more than 90 days.~~

~~**Social Detoxification Facility/Program:** A short term non-medical treatment service for consumers unrelated to the owner or provider in accordance with §62A-2-101,19, Utah Code Annotated, 1953, as amended, and the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Social Detoxification Programs. A Social Detoxification Facility/Program offers room, board, and specialized rehabilitation services to persons who are in an intoxicated state. In a Social Detoxification Facility, consumers are assisted in acquiring the sobriety and drug free condition necessary for living in the community and places emphasis on helping the consumer obtain further care after detoxification~~

~~**Temporary Use - Long-term:** A use established for a maximum period of 120 days, such use being discontinued after the expiration of 120 days. Long Term temporary uses may include: Temporary signs, Farm or Produce stands; Temporary Commercial Sales such as Christmas Tree Lots, ~~Fireworks Stands~~; Farmer's Markets; Construction Offices; Materials and/or Equipment Storage; Seasonal Activities such as Corn Mazes and Pumpkin Patches. Other long-term temporary uses will be allowed if approved by the enforcement officer Zoning Administrator. ~~The enforcement officer is a member of the Town Council who is appointed by the mayor to serve that function. Any denial of permission from the enforcement officer may be appealed to the entire Town Council.~~~~

~~**Veterinary Clinic:** A facility for the diagnosis, treatment, and hospitalization of animals that may include indoor and outdoor animal holding facilities.~~

~~**Wholesale Business and Storage:** Establishments or places of business primarily engaged in selling of merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.~~

~~**Wireless telecommunication equipment:** any equipment used to provide wireless telecommunication service, but which is not affixed to or contained within a wireless telecommunication service facility, but is instead affixed to or mounted on an existing building or structure that is used for some other purpose.~~

~~**Wireless telecommunication facility:** any freestanding facility, building, pole, tower or structure used to provide only wireless telecommunication services, and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services.~~

~~**Wireless telecommunication services:** services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal~~

Communications Commission for paging systems, enhanced specialized wireless telecommunication, personal communication services or cellular telephone.

Add Chapter 21, as follows:

Chapter 21 - Home Businesses

This chapter provides detailed standards for the review of proposed home businesses. The Planning Commission shall approve any application for a CUP for a proposed home business that complies with the standards of this chapter and other requirements of this ordinance. Compliance means that the proposal meets all absolute standards of this chapter and has a cumulative score of zero or better on the relative standards. Compliance review will be conducted using the checklist that is appended to this chapter.

1. Must the owner of a home business be in residence? Yes. The proposed home business must be owned and operated by a current resident of the dwelling in which it is proposed. The right to continue the home business ends if its owner is no longer in residence.

2. Must home businesses comply with the dimensional requirements of Table 2? At a minimum, yes, but the Planning Commission may reject an application for a CUP for a home business where it finds that the existing setbacks are not deep enough to mitigate potential impacts of the proposed home business.

3. How much indoor space can be used for a home business? That depends on its location. The indoor space that can be used for a home business is limited as follows:

- a. A maximum of 1500 square feet will be permitted in the C and GMU zoning districts.
- b. A maximum of 750 square feet will be permitted in the residential zoning districts.

Applicants must demonstrate compliance with this standard by submitting a scaled floor plan of the dwelling or accessory structure that clearly delineates the area that will be used for the home business.

4. Can a home business have outdoor workspace or store materials outdoors? Possibly. Proposed outdoor workspaces and/or the outdoor storage of materials, supplies, equipment, vehicles, or goods for sale associated with a home business will be evaluated using the following standards.

- a. They must fall within the setbacks required by Table 2 of this ordinance, but the Planning Commission may condition approval of outdoor workspaces or storage associated with a home business on the provision of setbacks deeper than those established by Table 2 if it finds that a greater distance from property lines or

public ways is necessary to mitigate the potential impacts of the proposed home business.

- b. The effective buffering or screening of outdoor workspaces or storage associated with home businesses is encouraged. Compliance with this relative standard will be determined by the Planning Commission using the scoring range and weights adopted on the Home Business Checklist.

Applicants must demonstrate compliance with this standard by submitting a scaled site plan that clearly delineates any outdoor space that would be used for the proposed home business. This drawing must show the required setbacks and any proposed buffers or screening. Where it is proposed to use existing vegetation as a buffer, photographs of that existing vegetation must be submitted. Where the buffer or screening will be installed, a planting plan and/or screening design must be submitted.

5. Are there restrictions on parking or traffic generation by home businesses?
Potentially. Home businesses that are reasonably expected to generate parking or traffic congestion along town roads or that have the potential to obstruct access to other properties are discouraged. The potential for congestion will be determined by the Planning Commission using the scoring range and weight adopted on the Home Business Checklist. Among other things, the Planning Commission may consider parking and traffic generated by deliveries, the possibility that the proposed home business will offer classes or stage events, and whether the home is within the Sensitive Lands, Hillside, and Mesa Tops Overlay Protection District where access to a home business may be restricted by the terrain.

6. Must a home business provide parking? Potentially.

- a. Off-street parking must be provided as required by Table 3 of this ordinance. NOTE: This rate may be zero.
- b. Where more than one additional off-street parking space is provided, effective buffering or screening of that off-street parking is encouraged. Compliance with this relative standard will be determined by the Planning Commission using the scoring range and weights adopted on the Home Business Checklist.

7. Are there restrictions on potential nuisances generated by home businesses? Yes.

- a. No home business shall require an NPDES permit, as required by state law.
- b. No home business shall require an air quality permit, as required by state law.
- c. The storage, use, and disposal of hazardous materials by home businesses shall be permitted only to the extent allowed for residential occupancies by NFPA 1, the 2006 Uniform Fire Code. The Planning Commission may permit an exception for a home business on a parcel of one or more acres upon finding that the proposed home

business will comply with all requirements of the 2006 Uniform Fire Code, including requirements for inspections by the fire department.

- d. No home business shall result in additional outdoor lighting.
- e. No home business shall result in blowing dust or smoke that adversely affects adjoining properties or public ways.
- f. No home business shall result in radiant heat or glare from welding equipment or other sources of intense heat or light that adversely affect adjoining properties.
- g. No home business shall generate sound that adversely affects adjoining properties.

8. Must a home business make proper provision for solid waste storage and disposal?

Of course. All applications for CUPs for home businesses shall show how any solid waste generated by the proposed home business will be properly stored and disposed of. The Planning Commission may reject an application for a CUP for a home business upon finding that it will generate a type and/or quantity of solid waste that is not compatible with neighboring residences.

9. Can a home business have a sign? Yes. Home businesses may display a single sign of no more than four square feet in size. This may be a freestanding, hanging, projecting, or wall sign. The application for a permit to establish a home business must be accompanied by scaled drawings that show the placement of the sign on the property and/or structure and the dimensions of the sign.

10. Can vehicles associated with a home business be parked on residential premises?

a. Only vehicles of 10,000 pounds gross vehicle weight or less can be parked overnight in residential zoning districts. Overnight parking of a larger vehicle is not a permitted part of a home business.

b. Where the home business involves the service or repair of vehicles, no more than two (2) vehicles waiting for or undergoing service or repair may be on the premises at any time.

11. Can the operating hours of home businesses be restricted? Yes. The Planning Commission may condition the approval of a home business on limited operating hours.

12. How will compliance with these standards be ensured? A certificate of occupancy is required for all home businesses. No such certificate shall be issued until all site improvements (landscaping, screening, parking, etc.) required for compliance with any of the standards adopted here are in place. A CUP for a home business is subject to revocation, as provided in Chapter 8 of this Ordinance.

Add Chapter 22, as follows:

Chapter 22 – Commercial Development Standards

This chapter provides detailed standards with which Potentially Compatible commercial uses must comply to receive a Conditional Use Permit (CUP). The Planning Commission shall approve any application for a CUP that complies with these standards. Compliance means that the proposal meets all absolute standards of this chapter and has a cumulative score of zero or better on the relative standards. Compliance with the relative standards adopted here will be determined by the Planning Commission using the scoring range and weights adopted on the Commercial Use Checklist that is appended to this chapter.

1. **Are there locational constraints on commercial development in Boulder? Yes.**
Commercial development is confined to parcels from which there is direct access to Utah Highway 12.

2. **Are there environmental constraints on commercial development in Boulder? Yes.**
 - a. There shall be no commercial development on sensitive lands, as defined in Chapter 10 this ordinance, or within the Sensitive Lands, Hillside, and Mesa Tops Overlay District established by Chapter 12.

 - b. Commercial development must provide a vegetated buffer along all watercourses, permanent and intermittent, including irrigation works and wetlands. Where feasible, the buffer along a watercourse shall include the entire riparian or wetland area and an additional upland buffer of at least 25 feet. Where the Planning Commission finds that it is not feasible to include the entire riparian or wetland area, the minimum buffer along a watercourse or around a wetland, shall be 50 feet. The minimum buffer along an irrigation ditch shall be determined in consultation with the owner of the ditch. Irrigation works may, with permission of the owner, be moved underground.

 - c. Commercial development is encouraged to avoid slopes of 15-30%.

 - d. An exception may be made to allow utilities and pedestrian trails, or, where the Planning Commission finds that no other vehicular access is feasible, an access drive to cross watercourses and their buffers or moderate slopes. Where a crossing is permitted, it shall take the shortest feasible route and disturb the minimum area necessary for its safe functioning.

 - e. The siting and design of commercial buildings and outdoor spaces is encouraged to preserve views and make use of the site's natural and cultural features.

3. **Must existing vegetation be retained during construction and occupancy of a commercial development? In some cases.**

a. The removal of existing perennial vegetation, particularly trees, that provides buffering, shade, and/or other functions is discouraged.

b. All vegetation preserved in compliance with these standards shall be protected during construction, including clearly marking the permitted limits of grading and, where necessary, the installation of tree wells or other barriers.

3. Must commercial development manage its storm water runoff? Yes.

a. All development must comply with Utah's Storm Water Management Program.

b. The Town prefers that runoff be absorbed as near its point of origin as possible. Curb and gutter will not ordinarily be permitted, but the Planning Commission may approve an exception where the use of curb and gutter clearly results in more effective storm water management.

4. Must commercial development provide utilities and access in accord with Town standards? Yes.

a. Utilities must be provided as required by Chapter 10 of this ordinance and Utah law.

b. UDOT approval is required for access to Highway 12.

c. Points of access (driveways) to town or county roads shall have a minimum width of 22 feet and meet all applicable state and county standards.

d. Undergrounding of utilities is encouraged.

5. Must commercial development comply with the dimensional requirements of Table 2? At a minimum, yes. The Planning Commission may, however, condition approval of a commercial use on the provision of setbacks deeper than those established by Table 2 where it finds that a greater distance from property lines or public ways is necessary to mitigate potential impacts of the proposed commercial use.

6. Is the scale of proposed commercial uses directly limited? Yes.

a. Commercial uses for which more than 15 total parking spaces would be required by Table 3 are prohibited in the LDR.

b. Commercial uses for which more 50 total parking spaces would be required by Table 3 are prohibited in the GMU.

c. Where there is a dwelling on a parcel that has a commercial use, the parking associated with that dwelling may be in addition to what is permitted for the commercial use.

d. Land use intensity – as measured by the floor area ratio and lot coverage - is encouraged to be compatible with that on neighboring properties.

7. Can a commercial use have outdoor workspace or store materials outdoors?

Potentially. Outdoor workspaces and the outdoor storage of materials, supplies, equipment, vehicles, or will be evaluated using the following standards.

- a. At a minimum, outdoor workspace and storage must fall within the setbacks required by Table 2. Deeper setbacks may be required for compliance with 5, above.
- b. The effective buffering or screening of outdoor workspaces or storage is encouraged. The lack of irrigation water to support effective landscaping is a valid reason for a finding that a proposed commercial use fails to comply with this standard.
- c. Outdoor workspaces and/or storage must not occupy required parking spaces.

8. Can a commercial use have outdoor sales space? Potentially. Outdoor sales spaces will be evaluated using the following standards.

- a. Outdoor sales areas must fall within the setbacks required by Table 2. Deeper setbacks may be required for compliance with 5, above.
- b. Outdoor sales areas may not occupy more than 10% of the parcel's street frontage up to a maximum of 40 feet.
- c. The landscaping of outdoor sales spaces is encouraged. The lack of irrigation water to support effective landscaping is a valid reason for a finding that a proposed commercial use fails to comply with this standard.
- d. Outdoor sales must not occupy required parking spaces.

9. Are there limits on parking or traffic generation for commercial development? Potentially.

- a. Commercial uses that are reasonably expected to generate parking or traffic congestion along town roads or Highway 12, or that have the potential to obstruct access to other properties are discouraged prohibited. The potential for congestion will be determined by the Planning Commission using the scoring range and weight adopted on the Commercial Use Checklist. Among other things, In making a finding that there will be parking or traffic congestion, the Planning Commission may consider parking and traffic generated by deliveries and the possibility that the proposed commercial use will offer classes or stage events. The Commission may table consideration of an application pending completion, at the applicant's expense, of a traffic study by qualified professionals.
- b. Approval of a CUP may be conditioned on the installation of improvements that will fully mitigate reasonably expected congestion. Such improvements shall be made at the developer's expense.

10. Must a commercial use provide off-street parking? Yes, as required by the following standards.

- a. Off-street parking must be provided at the rate set by Table 3.
- b. Excessive off-street parking is prohibited. This means that a use may provide no more than four parking spaces more than the minimum set by Table 3.
- c. Uses that are intended or reasonably expected to serve the traveling public, specifically including, but not limited to, lodging and restaurants, must provide at least one off-street parking space that is suitable for recreational vehicles plus one additional recreational vehicle parking space for every 10 spaces that use is required to provide. No additional recreational vehicle parking space must be provided where fewer than 10 spaces are required.
- d. Off-street parking is not permitted within the front setbacks established by Table 2.
- e. Off-street parking is discouraged from occupying more than 60% of the frontage of a commercial development (for corner lots, the frontage along the busiest street).
- f. Effective buffering or screening of off-street parking areas is encouraged.
- g. Provision of internal landscaping within off-street parking areas that include 10 or more spaces is encouraged.

11. Are commercial uses encouraged to moderate their visual impact, as seen from the road? They are. The long axis of commercial buildings is encouraged to be perpendicular rather than parallel to the road (for buildings on a corner lot, perpendicular to the busiest road). See also 19.c.

12. Are there restrictions on potential nuisances generated by commercial uses? Yes.

- a. No commercial use shall require an UPDES permit that is required by state law.
- b. No commercial use shall channel surface run-off onto another property, into irrigation works or a storm water treatment pond, or onto a public way except in compliance with an approved storm water management plan and with permission of the property owner/s.
- c. No commercial use shall require an air quality permit this is required by state law.
- d. Commercial storage, processing, use, and disposal of hazardous materials is not permitted. It is recognized, however, that some compatible commercial uses may use small quantities of hazardous materials (paint, solvents, and the like). The use of hazardous materials is permitted only to the extent allowed by and in compliance with NFPA 1, the 2006 Uniform Fire Code.
- e. All outdoor lighting fixtures shall bear the International Dark Sky Association Fixture Seal of Approval.

- f. No commercial use shall aim or direct light onto another property or public way.
- g. No commercial use shall result in blowing dust or smoke that adversely affects adjoining properties or the use of public ways.
- h. No commercial use shall result in radiant heat or glare from welding equipment or other sources of intense heat or light that adversely affect adjoining properties or the use of public ways.
- i. No commercial use shall generate sound that adversely affects adjoining properties.
- j. Compliance with the Utah Noxious Weeds Act, Utah Code, Title 4, Chapter 17, is required.

13. Must commercial uses make proper provision for solid waste storage and disposal? Of course.

- a. All applications for CUPs for commercial uses shall show how any solid waste generated will be properly stored and disposed of. The Planning Commission may reject an application for a CUP for a commercial use upon finding that the proposed provisions for solid waste storage and disposal are inadequate.
- b. Effective buffering or screening of solid waste receptacles is encouraged.
- c. No use shall serve food primarily in disposable containers, except when such containers are required for take-out service during a public health emergency.

14. Can commercial uses have signs? Yes, but only in compliance with the requirements of Chapter 10 of this ordinance.

15. Can the operating hours of home businesses be restricted? Yes. The Planning Commission may condition approval of a commercial use on limited operating hours.

16. Are drive-throughs or drive-ins allowed? No. Drive-through windows and facilities for drive-in service are prohibited in Boulder. This standard does not prohibit curbside service for people with mobility limitations or during a public health emergency.

17. Are standardized commercial uses allowed? No. Commercial enterprises that are required to use standardized features including architecture, décor, menus, signs, and/or uniforms by contractual, franchise, or other agreements are prohibited.

18. Can commercial uses include accessory dwellings? Yes.

- a. Accessory dwellings for the owner and/or employees are permitted as part of a commercial use.
- b. Provision of affordable housing for employees as part of a commercial development is encouraged.

19. Does the Town encourage new or substantially rebuilt commercial buildings to comply with certain design standards? Yes. Compliance with these standards will be determined by the Planning Commission using the scoring range and weight adopted on the Commercial Use Checklist.

- a. Reflectivity. The use of highly reflective building materials, including large expanses of metal and/or glass is discouraged. This standard is not intended to prohibit or discourage the use of solar power.
- b. Color. New or substantially rebuilt commercial buildings are encouraged to use earth tones for the bulk of their façade. Bright accents in the form of trim, doors, or possibly other architectural details are not discouraged.
- c. Building Lines. Long, uniform building lines are discouraged. There are numerous ways to comply with this standard, depending on the scale and use of the building, including varying the pitch of the roofline, varying the building footprint, placement of windows and doors, and adding architectural details, potentially including changes in color or the texture of the siding.
- d. Detached Forms. The use of detached forms – a cluster of smaller buildings rather than one larger structure – is encouraged for lodging and commercial development that will have multiple tenants.

20. Are any commercial uses specifically encouraged because of their contribution to the local economy? Yes. Commercial uses that process and sell primarily local agricultural products and/or primarily the creations of local artists or artisans are encouraged.

21. Does the Town regulate telecommunications facilities? Yes, but not using the provisions of this chapter. Please see Ordinance 2020-3.

22. How will compliance with these standards be ensured? A certificate of occupancy is required for all commercial developments. No such certificate shall be issued until all improvements, including, but not limited to, landscaping, screening, parking areas, off-site traffic mitigation, required for compliance with any of the standards adopted here are in place. A CUP is subject to revocation, as provided in Chapter 8 of this Ordinance.

Appendices

Appendix to Chapter 21- Home Business Standards Review Worksheet

Appendix to Chapter 22 – Commercial Standards Review Worksheet

Home Business Standards Review Worksheet -

Review of Project # _____

Standard	ABSOLUTE	RELATIVE	WEIGHT	POINT RANGE	Points X Weight			
					NR	Complies	Fails	Points
1. Occupant in Residence		✓						
2. Dimensional Requirements	Table 2	✓		Continuing compliance with these standards is required. This includes continuing maintenance of buffering, screening, parking spaces and other improvements required for compliance.				
3.a. Indoor Space: C, GMU	1500 SF	✓						
3.b. Indoor Space: LDR, MDR, HDR	750 SF	✓						
4.a. Outdoor Activity: Setbacks	Table 2	✓			deeper setbacks may be required			
4.b. Outdoor Activity: Buffer	buffer/screen		✓	2				
4.b. Outdoor Activity: LDR	buffer/screen		✓	3				
4.b. Outdoor Activity: MDR	buffer/screen		✓	4				
4.b. Outdoor Activity: HDR	buffer/screen		✓	4				
5. Parking/Traffic Generation			✓	4				
6.a. Parking Spaces	Table 3	✓						
6.b. Buffer/Screen Parking	buffer/screen		✓	3				
7.a. Nuisances: NPDES	state	✓						
7.b. Nuisances: Air Quality	state	✓						
7.c. Nuisances: HazMat	fire code	✓						
7.d. Nuisances: Outdoor Lighting	no additional	✓						
7.e. Nuisances: Dust, Smoke		✓						
7.e. Nuisances: Glare, Heat		✓						
7.g. Nuisances: Noise		✓						
8. Solid Waste		✓						
9. Signs	4 SF	✓						
10.a Commercial Vehicle	10,000 GVW	✓						
10.b. Vehicle Service/Repair	2 only	✓						
11. Operating Hours		✓						

To receive a CUP, projects must comply with ALL absolute standards and have a cumulative score of zero or more on the relative standards.

sum of scores >

number of absolute standards with which project fails to comply >

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**Commercial Standards Review
Worksheet**

Review of Project # _____

Standard	notes	ABSOLUTE	RELATIVE	WEIGHT	POINT RANGE	Review of Project # _____				Points X Weight
						NR	Complies	Fails	Points	
1. Commercial on UT 12 Only		✓								
2.a No Commercial in Overlay		✓								
2.b Watercourse Buffer		✓								
2.c Moderate Slopes			✓	5	-2/0					
2.d Crossings		✓								
2.e Views, Natural Features			✓	3	-2/+2					
3.a Retaining Vegetation			✓	5	-2/0					
3.b Protecting Vegetation		✓								
3. Storm Water	state law	✓								
4.a Utilities	Chapter 10	✓								
4.b Access to Hwy 12	state law	✓								
4.c Access to Other Roads		✓								
4.d. Utilities underground			✓	3	0/+2					
5. Dimensional Standards	Table 2	✓	Planning Commission may require deeper setbacks							
6.a Maximum Parking, LDR	15	✓	Applicable standard depends on access to UT 12							
6.b Maximum Parking, GMU	15/50	✓								
6.c Parking for Dwelling		✓								
6.d Land Use Intensity			✓	3	-2/+2					
7.a Outdoor Spaces Setback	Table 2	✓	Planning Commission may require deeper setbacks							
7.b Buffering/Screening			✓	3	-2/+2					
7.c Conflict with Parking		✓								
8.a Outdoor Sales Setback		✓	Planning Commission may require deeper setbacks							
8.b Outdoor Sales Fontage		✓								
8.c Outdoor Sales Landscaping			✓	3	-2/+2					
8.d Conflict with Parking		✓								
9.a Parking & Traffic		✓								
9.b Mitigation		✓								
10.a Off-street Parking	Table 3	✓								
10.b Excessive Parking		✓								
10.c RV Parking		✓								
subtotal >										

Standard	notes	ABSOLUTE	RELATIVE	WEIGHT	Point Range	NR	Complies	Fails	Points	Points X Weight
10.d Not in Front Setback		✓								
10.e Limit on Frontage Parking			✓	3	-2/+2					
10.f Buffering/Screening			✓	3	-2/+2					
10.g Internal Landscaping			✓	1	-2/+2					
11. Building Axis			✓	3	-2/+2					
12.a No UPDES	state law	✓								
12.b Runoff		✓								
12.c No Air Quality Permit	state law	✓								
12.d Hazardous Materials	fire code	✓								
12.e Outdoor Lighting	IDA Seal	✓								
12.f Light Trespass		✓								
12.g Dust, Smoke		✓								
12.h Heat, Glare		✓								
12.i Noise		✓								
12.j Noxious Weeds	state law	✓								
13.a Solid Waste		✓								
13.b Buffering/Screening			✓	2	-2/+2					
13.c Disposable Food Containers		✓								
14. Signs		✓								
15. Operating Hours		✓								
16. Drive-in, Drive Through		✓								
17. Standardized Commercial		✓								
18.a. Accessory Dwellings		✓								
18.b Employee Housing			✓	3	0/+2					
19.a Reflectivity			✓	5	-2/0					
19.b Color			✓	4	-2/+2					
19.c Building Lines			✓	4	-2/+2					
19.d Detached Forms			✓	4	0/+2					
20. Local Value Added			✓	1	-2/+2					
									subtotal >	
To receive a CUP, projects must comply with ALL absolute standards and have a cumulative score of zero or more on the relative standards. Continuing compliance is required.									total >	
number of absolute standards with which project fails to comply >										

newspaper of general circulation within Boulder Town;

or

(b2) Causing to be posted a complete copy of this ordinance in three (3) public places within Boulder Town.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of Boulder Town, Utah, this ____ day of _____, 2021.

/s/ _____

[Seal] Judith Davis
Boulder Town Clerk