

Table of Special Exceptions

ZAP Task Force Review

March 23, 2009

Issue	Current Requirement	Proposed Change	Reasoning	Remarks
Authority for review of Special Exceptions (Authority)	Currently the Board of Adjustment has the authority to review and decide Special Exceptions.	Allow as permitted uses or modify standards such that they may be approved administratively. Modify authority section of planning commission to include authority in some instances (primarily design and use issues)		
Amusement devices (section 21A.40.110 of this title). (Use)	Current regulations limit the numbers in CB and RMU districts: to less than 3. Requests for three (3) to nine (9) may be approved as a special exception.	Establish a permitted number (up to 9) in these districts. Greater than the established max, classifies the use as a Commercial Arcade.	Right now, special exception allows 3 to 9 of these video arcades in CB and Residential areas. With the trends for arcade games has greatly been reduced with the advancement of home game systems now as the current trend. Where they are located in commercial uses, they are accessory to the commercial use.	
Conditional home occupations (subsection 21A.36.030D of this title) (Use)	Home Occupations: Permitted Home Occupations include: Artists, illustrators, writers, photographers, editors, drafters, and publishers, consultants, private investigators, field representatives and other similar activities; Bookkeeping and other similar computer activities;		Make all home occupations permitted except those specifically prohibited, subject to compliance with standards currently established Make permitted	

	<p>Locksmith Distribution of products grown or assembled at home for off premises sales (such as garden produce, crafts, etc.); Janitorial services; and Mail order business or sales representative.</p> <p>Home Occupations Prohibited include: Auto repairs; Kennels, Welding shops or machine shops, Large Appliance/electronics or equipment repair or service (washers, dryers, refrigerators and other appliances or equipment that are too large to be carried in 1 individual's arms), Truck hauling, Cabinetmaking, Deliveries, and Stables.</p> <p>Conditional Home Occupations include: Barbers, cosmetologists, manicurists, Consultant services, Physicians, therapists, massage therapists, Home instruction of musical instruments, voice, dance, acting and educational subjects, Small appliance/electronics/equipment repair or service (items which can be carried in 1 individual's arms), Dressmaker/tailor where there is no cleaning, dyeing or pressing by mechanically operated equipment, Contractor, "handyman", and landscape or yard maintenance contractor; subject</p>		<p>automatically if client visits are under some number per day.</p> <p>Possible Special Use if client visits are over some number of visits per day. Currently not more than one client at a time. Possibly give authority to Zoning Administrator with notice requirement similar to those of Administrative interpretations without web posting?</p> <p>Incorporate into the use tables with set definitions and qualifying provisions.</p> <p>Currently there is an additional \$110.74 fee for home occupations, zoning review fees; we do not charge this fee for other business lic. and it seems to be a bit onerous, for small businesses, perhaps we amend to eliminate the fee for home occupations or add the fee to all business licenses</p>	
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	<p>to the special conditions that no construction materials or equipment will be stored on the premises, Artists, photographers; and Other similar personal or professional services where the client comes to the home.</p>		<p>Encourage more home occupations; strengthen the goals of the sustainability study, by reducing vehicle trips, consistent with changes in employment patterns resulting from new technologies.</p> <p>What barriers exist which may discourage these kinds of employment opportunities?</p>	
<p>Access for persons with disabilities (subsection 21A.52.100C of this chapter). (Location)</p>	<p>Access For Persons With Disabilities: Currently the BOA may grant modifications to parking areas, setback encroachments etc., in order to accommodate access to single-family or duplex dwellings for persons with physical disabilities upon determining that:</p> <ol style="list-style-type: none"> 1. The encroachment is necessary to meet the needs of the applicant; 2. The proposed special exception would have no substantial adverse impact upon the neighborhood; and 	<p>Access for persons with disabilities should be approved by the Building Official to ensure accommodations for persons with disabilities. Must ensure compliance with Americans with Disabilities Act.</p>		

	<p>3. The obstruction to accommodate access for persons with disabilities will be removed when the person with a disability moves or no longer needs special access.</p>			
<p>Amateur ("ham") radio antennas (subsection 21A.40.090D of this title). (Design/location)</p>	<p>Antennas over 75 feet must obtain Special Exception. City can deny the request if can base decision on health, safety and ascetic considerations but only if the City can prove the new location or design will not diminish the transmission capacity of the antennae.</p>	<p>Make review process be through the Conditional Building and Site Design Review process since the issue relates to design and location. Planning Commission would have final approval authority. Existing design standards would be part of the review.</p>		
<p>Hobby shops, studios and other noncommercial uses in accessory structures (subsection 21A.52.100D of this chapter). (Use)</p>	<p>Currently allows a private study, art studio, hobby shop, exercise room, a dressing room adjacent to a swimming pool, or other similar uses in an accessory structure.</p> <p>Current standards include</p> <ul style="list-style-type: none"> • Height of the structure isn't changed. The accessory building may at no time be converted to living quarters or commercial use. changed; No windows adjacent to property line (where within 10 feet of property line) 	<p>Allow as a special use with existing standards. Mainly approved administratively.</p>		

	<ul style="list-style-type: none"> • Located in rear yard, if detached structure. • Can't be converted to living quarters or commercial use. 			
<p>Legalization of excess dwelling units (subsection 21A.52.100E of this chapter).</p> <p>(Use)</p>	<p>Legalization Of Excess Dwelling Units: The board of adjustment may grant a special exception to legalize an excess number of residential dwelling units that exist although the zoning does not currently allow that number of units. The applicant must provide evidence that the units have existed for a number of years.</p> <p>The Board of Adjustment can approve if they can find</p> <p>Units were constructed prior to 1970 and have been used continuously since then</p> <p>The units comply with life / safety standards</p> <p>Off street parking is hard-surfaced and the number of spaces meets the 1970 parking requirement.</p> <p>Nondimensional zoning violations have</p>	<p>The Board of Adjustment may authorize a special exception <i>The Division of Building Services (or Zoning Administrator) and Licensing may authorize</i> legalizing the excess number of dwelling units applied for upon making findings that support the following conclusions:</p> <p>i. The same requirements as listed in subsection 21A.52.040A of this Chapter; and <i>(need to develop application guidelines separate from Special Exceptions)</i></p> <p>b. The decision of the board of adjustment <i>Building Services (or Zoning Administrator)</i> regarding legalization may be appealed</p>	<p>Provided the criteria for approval is met the legalization may be approved administratively, should the criteria not be met the applicant may appeal the decision, Appeal of an Administrative Decision to the BOA.</p> <p>Currently the Policy of requiring a review and signature by the Community Council is not is the ordinance. Propose notification requirements</p> <p>Notification of the legalization may be posted to web and mailed to abutting property owners, Set up to be the same as an administrative interpretation.</p>	

	<p>been corrected.</p>	<p>to the <i>Board of Adjustment as an Appeal of an Administrative Decision</i> pursuant to section 21A.16.040 of this title:</p> <p>iv. The owner has applied for an apartment license if the building contains five (5) <i>three (3)</i> or more dwelling units;</p> <p>i. The excess dwelling units were constructed before 1970 and have been continuously used as dwelling units, <u>there may be periods where the unit is not occupied, these periods do not negate the continuous use</u>; and</p> <p>Approval based upon “substantive evidence”, this needs to be defined.</p>	<p>Need to develop application criteria separate from Special Exceptions.</p> <p>Need to find a placement in the ordinance, perhaps General Provisions chapter 36</p>	
<p>Operation of registered home daycare or registered home preschool facility in residential districts (subsection 21A.36.130B of this</p>	<p>21A.36.130 Child Daycare:</p> <p>A. Nonregistered Home Daycare: Nonregistered home daycare, limited to no more than two (2) children, excluding the provider's children, is permitted in the home of the care</p>		<p>Permitted based upon qualifying provisions.</p> <p>Develop as a Special Use</p> <p>This application should be similar to the Home</p>	

<p>title).</p>	<p>provider .A business revenue license or home occupation conditional use approval shall not be required.</p> <p>B. Registered Home Daycare Or Registered Home Preschool: A registered home daycare or registered home preschool as defined</p> <p>Standards: All residential home daycares or preschools shall be subject to the standards set forth in part V, chapter 21A.52 of this title and subject to the following specific standards:</p> <ul style="list-style-type: none"> a. The applicant resides at the home in which the business will be conducted; b. At no time shall the applicant provide home daycare or home preschool services for a group of children exceeding the maximum specified for such facility; c. The outdoor play area for the home daycare or home preschool shall be located in the rear or side yards of the home for the protection and safety of the children and for the protection of the neighborhood; d. The use of the home for the services of providing childcare shall be clearly 		<p>occupation discussion with different/more specific qualifying provisions</p> <p>List use in the tables of permitted and conditional uses with qualifying provisions listed.</p>	
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	<p>incidental and secondary to the use of the dwelling for residential purposes and shall not change the character of the home or the neighborhood;</p> <p>e. The care and supervision of the children shall be conducted in a manner which is not a public nuisance to the neighborhood;</p> <p>f. There shall be no advertising of such occupation, business or service, no window or other signs or displays;</p> <p>g. No employees other than persons lawfully living in the dwelling;</p> <p>h. No use of any accessory dwellings for daycare purposes;</p> <p>i. No play or yard equipment located in the front yard; and</p> <p>j. It is unlawful for any person to engage in a "registered home daycare or registered home preschool" as defined in section 21A.62.040 of this title without first obtaining a license pursuant to the provisions of title 5, chapter 5.04 of this code. Prior to issuance of said license, the criteria set forth in this title must be satisfied and all applicable fees shall be paid. All</p>			
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	<p>home occupation business licenses shall be valid for one year, and may be renewed annually, provided there have been no reported violations, subject to subsection 21A.36.030J of this chapter.</p> <p>C. Child Daycare Center: A child daycare center as defined in part VI, chapter 21A.62 of this title, may be permitted as follows:</p> <p>1. Permitted Use: A child daycare center is a permitted use in the RMF-75, R-MU-35, R-MU-45, R-MU, RB, RO, CN, CB, CC, CS, CSHBD, CG, D-1, D-2, D-3, M-1, I, UI, BP, RP, A, PL and PL-2 districts.</p> <p>2. Conditional Use: A child daycare center may be allowed as a conditional use pursuant to the provisions of part V, chapter 21A.54 of this title, in the R-1/12,000, R-1/7,000, R-1/5,000, SR-1, SR-3, R-2, RMF-30, RMF-35 and RMF-45 districts.</p>			
<p>Outdoor dining in required yard areas (subsection 21A.52.100F of this chapter).</p>	<p>This provision of the ordinance permits under review the development of Outdoor Dining in required yard areas (front yard, rear yard, side yard, Corner side yard)</p>	<p>Outdoor Dining In Required Yard Areas: The board of adjustment <i>Planning Commission or Zoning Administrator</i> may approve as a special exception <i>use</i></p>	<p>May be conditional or special use in neighborhood type districts. Or additional qualifying provisions with respect to abutting</p>	

		<p>outdoor dining in required front, rear and side yards if the board of adjustment <i>Planning Commission or Zoning Administrator</i> finds that: <i>Standards follow</i></p>	<p>residential uses. 21A.52.100F. This exception states that approval is granted if the restaurant owns the land, has licenses, and abides by city laws. Not much idiosyncratic judgment seems required. The case of patio space on public thoroughfare is already and should continue to be handled by a different process.</p>	
<p>Barbed wire fences (subsection 21A.40.120I of this title). (Design)</p>	<p>2. Special Exception: Barbed wire fencing may be approved for nonresidential uses as a special exception pursuant to part V, chapter 21A.52 of this title, in all zoning districts except for those listed above as permitted uses. The board of adjustment may approve as special exceptions, the placement of barbed wire fences, for security reasons, or for the keeping of animals around nonresidential properties, transformer stations, microwave stations, construction sites or other similar publicly necessary or dangerous sites, provided the requested fence is not in any residential district and is not on or near the property line of a lot which is</p>		<p>Make permitted for all buildings in certain zones and for all things defined as a public safety hazard everywhere.</p> <p>All new fence construction subject to building/zoning permit review.</p> <p>Make permitted in nonresidential districts based upon the following conditions the placement of barbed wire fences, for security reasons for the keeping of animals around</p>	

	<p>occupied as a place of residence.</p>		<p>nonresidential properties, transformer stations, microwave stations, construction sites or other similar publicly necessary or dangerous sites, provided the requested fence is not in any residential district and is not on or near the property line of a lot which is occupied as a place of residence.</p> <p>Make permitted for all buildings in certain zones and for all things defined as a public safety hazard everywhere.</p>	
<p>Razor wire (subsection 21A.40.120J of this title). (Design)</p>	<p>J. Razor Wire Fences:</p> <p>1. Special Exception: Razor wire fencing may be approved for nonresidential uses as a special exception pursuant to part V, chapter 21A.52 of this title, in the A, CG, D-2, M-1 and M-2 zoning districts. The board of adjustment may approve as a special exception the placement of razor wire fences, for security reasons, around commercial or industrial uses, transformer stations, microwave stations, or other similar public</p>		<p>Make permitted for all things defined as a public safety hazard in non-residential areas and when not abutting residential uses.</p> <p>Establish an administrative design review based upon clearer standards.</p>	

	<p>necessity or dangerous sites; provided, that the requested fence is not on the property line of a lot which is occupied as a place of residence.</p> <p>2. Location Requirements: Razor wire fencing shall not be allowed in required front or corner side yard setback.</p> <p>3. Special Design Regulations: No strand of razor wire shall be permitted on a fence that is less than seven feet (7') high. Razor wire coils shall not exceed eighteen inches (18") in diameter and must slant inward from the fence to which the razor wire is being attached.</p> <p>4. Special Exception Approval Standards: The board of adjustment may approve razor wire fencing if the board finds that the applicant has shown that razor wire is necessary for the security of the property in question.</p>			
<p>Front yard parking (subsection 21A.44.050B of this title). (Location)</p>	<p>B. Front Yard Parking: Front yard parking may be allowed as a special exception when the rear or side yards cannot be reasonably accessed and it is impossible to build an attached garage that conforms to yard area and setback requirements, subject to the following</p>		<p>Need site review to verify that side and rear are inaccessible and garage can't be built, and meets with qualifying provisions currently in place.</p>	

	<p>conditions:</p> <ol style="list-style-type: none"> 1. The hard surfaced parking area be limited to nine feet (9') wide by twenty feet (20') deep; 2. A minimum twenty foot (20') setback from the front of the dwelling to the front property line exists so that vehicles will not project into the public right of way; and 3. Parking on the hard surfaced area is restricted to passenger vehicles only. 		<p>There have been concerns regarding impacts in Historic districts, may want to require minor development review for impacts</p>	
<p>Window mounted refrigerated air conditioners and evaporative "swamp" coolers located less than two feet (2') from a lot line</p> <p>(Location)</p>	<p>(Table 21A.36.020B, "Obstructions In Required Yards", of this title and subsection 21A.52.100H of this chapter).</p>	<p>Window Mounted Refrigerated Air Conditioners And Evaporative Swamp Coolers Located Within Two Feet Of The Property Line: Window mounted refrigerated air conditioners and evaporative swamp coolers located closer than two feet (2') from the lot line must comply with applicable Salt Lake Valley health department noise standards.</p> <p><i>Modify table" Obstructions in required yards" to make permitted</i></p>		<p>Perhaps proof that structurally in capable of meeting yard area requirements. Determination that the scope of structural work to properly locate the equipment is impractical. If so??</p>

<p>Ground mounted central air conditioning compressors or systems, heating, ventilating, pool and filtering equipment located less than four feet (4') from a lot line</p> <p>(Location)</p>	<p>(Table 21A.36.020B, "Obstructions In Required Yards", of this title and subsection 21A.52.100I of this chapter).</p>	<p>Ground Mounted Central Air Conditioning Compressors Or Systems, Heating, Ventilating, Pool And Filtering Equipment Located Within Four Feet Of The Property Line: Ground mounted central air conditioning compressors or systems, heating, ventilating, pool and filtering equipment in the side yard located closer than four feet (4') from the lot line must comply with applicable Salt Lake Valley health department noise standards.</p> <p><i>Modify table" Obstructions in required yards" to make permitted</i></p>		<p>Perhaps proof that structurally in capable of meeting yard area requirements. Determination that the scope of structural work to properly locate the equipment is impractical. If so??</p>
<p>Utilities in accessory buildings such as electrical service meters</p> <p>(Location)</p>	<p>This item is not restricted by or discussed in the ordinance, the Zoning Administrator list noted this in an attempt to control the expansion of use within an accessory structure</p>	<p>Amend accessory structure section to permit electric service meters.</p>		<p>Permitted we should be encouraging the decluttering of utility wires. The intent of this rule was to keep accessory structures from developing in to principle uses or intensified accessory uses. Requires the burial of utility lines beyond the service</p>

				<p>box.</p> <p>Recent uses have been to eliminate overhead wires, and for placement of solar panels on accessory structures.</p>
<p>Waiver of hard surface requirements in commercial and industrial zones.</p> <p>This special exception is not listed in the ordinance and was developed as a part of the zoning administrators list</p> <p>(Design)</p>	<p>In commercial and industrial zones, vehicle and equipment storage that is not hard-surfaced provided:</p> <p>a. The lot is used for long term vehicle storage, not for regular parking and/or maneuvering.</p> <p>b. The vehicles stored are large and/or on tracks that could destroy normal hard-surfacing.</p> <p>c. The parking surface is compacted with 6 inches of road base or other semi-hard material with long lasting dust control chemicals applied annually.</p> <p>d. A hard-surfaced wash bay is installed to wash wheels to prevent tracking of mud and sand onto the public way.</p> <p>e. An agreement/covenant made with the City that if it becomes necessary for the City to clean the street of debris associated with the un-surfaced lot, the owner will pay damages.</p> <p>f. A minimum of 50 feet paved driveway from the public street property line.</p>	<p>Create a section in the parking chapter, permit subject to compliance with existing standards</p>		

	g. Traffic Engineer's approval.			
<p>Detached Garages on double frontage lots.</p> <p>This special exception is not listed in the ordinance and was developed as a part of the zoning administrators list</p>	<p>Detached garages in the front yard of double frontage lots, which do not have any rear yard provided:</p> <p>a. Other properties having garages fronting on the same street.</p> <p>b. No line-of-sight problems will exist for pedestrians walking in front of the garage.</p> <p>c. The garage meets all other size and height limits governed by the Zoning Ordinance</p>	Permitted subject to qualifying provisions.	<p>Double frontage and triple frontage lots need be defined; there is an additional relationship to average setbacks when people want to add to the principle structure. Currently there is no defined rear yard and as such someone wanting to do an addition on a double frontage lot needs to average the setback of the rear of the house. This may be appropriate, but we need to have written policy.</p>	This issue may be vetted with the residential ordinance revisions.
21A.46.070.V. Historic District Signs	The board of adjustment may authorize, as a special exception, modification to an existing sign or the size or placement of a new sign in a historic district or on a landmark site if the applicant can demonstrate that the location, size and/or design of the proposed sign is compatible with the design period or theme of the historic structure or district, and/or will cause less physical damage to the historically significant structure	<p>Authorize the HLC to be the decision making body to approve these types of exceptions to the sign regulations.</p> <p>The board of adjustment <u>HLC</u> may authorize, as a <u>minor alteration</u> a <u>special exception</u>, modification to an existing <u>non-conforming</u> sign or the size or placement of a new sign in a historic district or on a landmark site if the</p>	Historic Landmark Commission is better suited for this determination. State Law give flexibility for "appeal Authority"	

		applicant can demonstrate that the location, size and/or design of the proposed sign is compatible with the design period or theme of the historic structure or district, and/or will cause less physical damage to the historically significant structure <i>and meets the design guidelines.</i>		
		Items for review in other petitions		
Additional fence height (subsection 21A.52.100A of this chapter).		21A.40.120E: Make a site design review necessary to ensure neighborhood integrity and support. Perhaps eliminate all together and additional fence height would require a variance and proof of hardship. Or, CBSDR		
Additional height in commercial districts (subsection 21A.52.100G of this chapter).		21A.26.010J For buildings exceeding maximum height by more than 10%, should do a building design review (although right now the process is a conditional use process).		Develop section with CBSDR petition

Additional building height in foothills districts (subsection 21A.24.010P2 of this title).		CBSDR: Public hearing would be good to have for adjacent property owners. See 21A.24.010P2		Develop section with CBSDR petition
Alternative parking (section 21A.44.030 of this title).		Require proof that the current special exceptions standards will still be met, but allow for administrative decision rather than public process. In accord with sustainable city goals, alternatives to parking should be encouraged—vanpools and bus passes—and not made more difficult to implement.		Could develop as a Special Use (To be developed with parking study)
Modifications to maximum height in commercial districts (subsection 21A.26.010J of this title).		For buildings exceeding maximum height by more than 10% 21A.26.010J For buildings exceeding maximum height by more than 10%, should do a building design review (although right now the process is a conditional use process).		Develop section with CBSDR petition
Reconstruction and reestablishment of nonresidential nonconforming uses and noncomplying				Issue to be vetted in Non-conforming Non-complying text amendment

<p>structures with nonconforming uses damaged or destroyed greater than fifty percent (50%)</p>				
<p>Additional building height in the R-1 districts, R-2 districts and SR districts</p>			<p>This issue should be addressed as a part of the Residential zoning amendments, until that is vetted I recommend simply removing the special exception all together.</p>	<p>Issue to be developed as a part of Residential Zoning District “Compatible Infill” text amendment.</p>
<p>Alternate location for accessory structures in the R-1 districts, R-2 districts and the SR districts (</p>			<p>This issue has placed an undue burden on people with deep lots the location should be defined as allowed in the rear yard area, with a clarification that the rear yard area for this purpose is behind the rear wall of the principle structure measured at the plane of the rear wall.</p> <p>Any request outside of this area would require a variance.</p> <p>Double frontage lots needs to be addressed</p>	<p>Issue to be developed as a part of Residential Zoning District “Compatible Infill” text amendment.</p>

			separately	
Additions or extensions to existing residential or commercial buildings, which are noncomplying as to yard area or height.				Issue to be developed as a part of Nonconforming/Noncomplying text amendment
Typical accessory buildings for single-family dwellings which exceed 720 square feet in area.			This issue should be addressed as a part of the Residential zoning amendments, until that is vetted I recommend simply removing the special exception all together.	Issue to be developed as a part of Residential Zoning District "Compatible Infill" text amendment.
Garage height in excess of the permitted height.			This issue should be addressed as a part of the Residential zoning amendments, until that is vetted I recommend simply removing the special exception all together.	Issue to be developed as a part of Residential Zoning District "Compatible Infill" text amendment.
Replacement of any existing noncomplying segment of a residential or commercial structure.				Issue to be vetted in Non-conforming Non-complying text amendment.
Circular driveways	Circular Driveways: Circular			This issue is currently

<p>(subsection 21A.44.020F7d of this title).</p> <p>(Design)</p>	<p>driveways that connect to a driveway extending to a legal parking location located in the front yard area</p>			<p>being addressed as a part of a fine tuning amendment</p>
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