

**CEDAR CITY
ORDINANCE 0228-24**

**AN ORDINANCE AMENDING CEDAR CITY ORDINANCE 26-IX-4(E)(2)
PERTAINING TO FENCE HEIGHT REQUIREMENTS FOR IN-HOME NURSERY
SCHOOLS/DAYCARES**

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enable Cedar City to pass ordinances as are necessary and proper to provide for the safety, promote the prosperity, improve the peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city; and

WHEREAS, pursuant to Utah Code § 10-1-203, a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance; and

WHEREAS, Cedar City has adopted Chapter 26 Article IX of the ordinance of Cedar City, Utah, and said provisions contain specific requirements governing the granting of home occupation business licenses in Cedar City; and

WHEREAS, the Cedar City Council desires to update and amend Chapter 26 Article IX of the Cedar City Ordinances entitled “Board of Adjustments”; and

WHEREAS, Cedar City ordinance places a requirement on fencing for in-home daycares that exceeds the State of Utah's fencing requirement;

WHEREAS, the Cedar City Council desires to bring the City's requirement into conformity with the State's fencing requirement; and

WHEREAS, the City Council finds that it is in the best interests of the health, safety, and general welfare of the citizens of Cedar City to change Chapter 26 Article IX by updating the existing ordinance.

NOW THEREFORE, be it ordained by the City Council of the Cedar City, in the State of Utah, that Chapter 26 Article IX of the ordinances of Cedar City, Utah, is hereby amended to include the below underlined red text and exclude all crossed out text:

SECTION 1: **AMENDMENT** “Section 26-IX-4 Special Exceptions” of the Cedar City Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 26-IX-4 Special Exceptions

To hear and decide requests for special exceptions or other special requests upon which such board is authorized to pass as herein set forth; provided, however, that the board shall not act upon matters which have not been specifically delegated to it by the terms of this chapter. Every decision of the Board of Adjustments shall be based upon findings of fact, and every fact and every finding of fact shall be supported in the record of the proceedings of the Board.

The special exceptions or other special requests on which the Board of Adjustments shall be authorized to pass are:

- A. To permit the building of a dwelling upon a lot which does not have frontage on a street, if an adequate easement is provided,
- B. To interpret the zone map,
- C. To reduce the amount of off-street parking required where sufficient off-street parking is not readily available within the vicinity, and/or where acquisition of land for such use would cause exceptional hardships. Also to decide the number of off-street parking spaces which shall be required when the number is not specifically set forth in this ordinance.
- D. The Board of Adjustments may permit buildings to be constructed within seventy-five (75) feet from a natural flood channel, provided measures are taken which will adequately protect the buildings or structures from damage due to floods, will not increase the hazard of flood damage to surrounding lands and buildings, and will be located in accordance with the plan of flood drainage as approved by the City Council.
 1. Such use is similar in character and nature to the uses permitted in the zone.
 2. Such use conforms to the basic characteristics of the zone in which it is added and is in harmony with the objectives and purposes of the zone.
 3. Such use is not likely to create any more traffic, or be more offensive due to noise, heat, dust, smoke, odor, glare, vibration or other objectionable influence than the minimum amount normally resulting from the other uses listed in the zone in which it is added. When any use has been added to any zone in accordance with this procedure, such use shall thereafter be deemed to be a permitted use within that zone.
- E. Grant Home Occupations: The Board of Adjustments may grant home occupations in the R1, R-2 (Dwelling, Single Unit), R-2 (Dwelling, Two Unit), R-3 (Dwelling, Single Unit), R-3 (Dwelling, Multiple Unit), and RE zones provided:
 1. The home occupation is conducted entirely within a dwelling and is carried on by members of the family residing in the dwelling. Employees other than family members residing in the dwelling are permitted as long as the following conditions are complied with: (a) the total number of full time and part time employees, including those residing in the home, shall not exceed 1 employee for every one hundred and fifty (150) square feet of area devoted to the home occupation, as per 26-IX-4(E)(6) and in no event exceed a maximum of five (5) outside employees; and (b) provide off street parking as required by 26-IX-4(E)(9).
 2. The home occupation does not involve the use of any accessory buildings or yard space for storage or activities outside of the dwelling not normally associated with residential use, except for Nursery Schools, in which case it is

presumed that rear yard space is utilized and the rear yard space must be completely fenced with at least a ~~six~~four-foot (64') high fence.

3. No commercial vehicles are used except one delivery truck which does not exceed one (1) ton capacity.
4. The home occupation does not include a drive through.
5. The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling.
6. Signs shall be limited to one non-flashing non-illuminated sign not larger in area than six (6) square feet. Said sign must be located at least ten feet (10') behind the sidewalk, and comply with the provisions of 26-IV-3, clear view of intersecting streets. The top of a freestanding sign not attached to the residence shall not be more than four (4) feet from ground level.
7. Not more than the equivalent of twenty-five percent (25%) of the ground floor area of the dwelling is devoted to the home occupation. Nursery schools and daycare centers may use up to twenty-five percent (25%) of the ground floor area and one other floor of the home. Nursery schools and day care centers need not designate a particular twenty-five percent (25%) of the two-floor area; however, the actual 25% of the two-floor area shall be utilized to calculate the maximum number of children allowed in the dwelling pursuant to Section 26-IX-4(E)(11)(b). Ground floor area is defined as the square footage computed in the outside measurements of the dwelling portion of the home on the ground floor level. Basement or basement level floor space shall not be used in computing ground floor area.
8. The home occupation shall apply for and receive and maintain a Cedar City business license.
9. In the opinion of the Board of Adjustments, the activities in connection with the home occupation are not contrary to the objectives and characteristics of the zone in which the home occupation is located.
10. Off-street parking will be provided. Except as provided under Section 26-IX-4(E)(14), the amount of off street parking shall depend on the type of home occupation being requested and shall meet the requirements of Chapter 26, Section V, required parking. When applying the parking requirements from Chapter 26, Section V, the required parking for the home occupation shall be in addition to the required parking for the entire residential use of the property. The applicant shall submit to the City's building and zoning official a site plan showing how the parking will be accommodated on the lot at least five (5) days prior to the board of adjustment meeting.
11. In addition to the above requirements, home occupations for Nursery Schools may be granted by the Board of Adjustments provided that the proposed Nursery School has:
 - a. A maximum of sixteen children at any one time, including the occupant's own children;
 - b. That the portion of the dwelling used for the Nursery School contains floor space of at least thirty-five (35) square foot per child and

alternate door exits.

12. Before conducting a hearing on a home occupation request the Building Inspector shall have conducted an on-site inspection and shall make a report of his findings to the Board of Adjustments.
13. Notice by the applicant shall be given to all property owners of record within a 300-foot radius from the boundary of the proposed home occupation. Said notice shall be sent certified mail or hand-delivered to the property owners in accordance with the most current Iron County Assessment Roll no later than five (5) days before the board of adjustments meeting. Proof of the certified mail and/or a certificate documenting hand delivery to property owners as required herein shall be delivered to the City Building Official prior to the board of adjustments meeting.
14. For temporary home occupations obtaining a transitional license under Section 23-14(D)(3), the Board of Adjustments may exempt, in full or in part, the applicant from the business portion of the parking requirements under Section 26-IX-4(E)(10) if, in the opinion of the Board of Adjustments, the exemption will not create a safety hazard.
15. The applicant certifies that the applicant has reviewed any CC&R's that regulate the dwelling and any CC&R restrictions on home occupations.

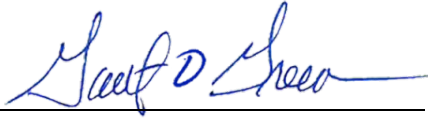
Amended by Cedar City Ordinance No. 0416-14,1114-18-4, 0213-19 and 0810-22-14
Amended by Cedar City Ordinance No. 0612-13-2

PASSED AND ADOPTED BY THE CEDAR CITY CITY COUNCIL FEBRUARY 28, 2024.

	AYE	NAY	ABSENT	ABSTAIN
Phillips	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Melling	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Riddle	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Cox	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Wilkey	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer

Attest



Garth O. Green, MAYOR, Cedar City



RENON SAVAGE, RECORDER,
Cedar City

