



Nibley City  
Planning Commission  
Wednesday, January 27, 2016  
455 W. 3200 S.  
Nibley, UT

5:30 p.m.      Call to Order  
                    Approval of Agenda  
                    Approval of Minutes

**BUSINESS LICENSE/CONDITIONAL USE PERMIT**

**Dustin Business Services, LLC**- discussion and consideration of a conditional use permit and business license for a home occupation (bookkeeping) located at 169 W 3300 S (Applicant: Lesli Dustin)

Discussion and consideration of an ordinance regulating home occupations in Nibley City.

**Staff Report**

*Planning Commission agenda items may be tabled if: 1) Additional information is needed in order to take action on the item; OR 2) The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. **No agenda item will begin after 10:00 p.m. without a unanimous vote of the Commission.** The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.*

**IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.**



## MEMO

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1/22/16

### **BUSINESS LICENSE/CONDITIONAL USE PERMIT**

**Dustin Business Services, LLC**- discussion and consideration of a conditional use permit and business license for a home occupation (bookkeeping) located at 169 W 3300 S (Applicant: Lesli Dustin)

- This application is for a home occupation bookkeeping business.
- Our home occupation definition is:
  - The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that: 1) individuals who perform occupation related activities at the home occupation residence must also live at that residence; 2) individuals who do not live at the home occupation residence must not report to that residence for occupation related activities; and 3) the occupation shall not use any accessory building, yard, or any space outside the main building not normally associated with residential use. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified a home occupation rather than being classified by the actual activity associated with the business, with the following exceptions. Child daycare/preschool for more than eight (8) children shall be classified as a commercial daycare rather than a home occupation. In addition, activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation.
- If a business meets the definition above, then it may be licensed as a home occupation, without regard for the type of business actually being conducted, provided that the business is legal and not otherwise specifically prohibited by ordinance.
- Mrs. Dustin's application states that she will not have any outside employees or client visits. No portion of the work will be conducted in an accessory building, and there will be no business related vehicles or signage.
- This business meets the requirements to be classified and approved as a home occupation.
  - The property is zoned Residential R-2. The Nibley City Land Use Chart allows for home occupations, as a conditional use, in the R-2 zone.

- Because this business meets the definition of home occupation, I recommend approving the conditional use permit and have no suggested conditions beyond what is already in ordinance.

**Discussion and consideration of an ordinance regulating home occupations in Nibley City.**

- I have marked up the draft with the attorney's comments. I will have the draft pulled up on the computer, so we can go through and make corrections/changes as you see fit.



Jan 28, 2016  
APPLICATION FOR CONDITIONAL USE  
PERMIT/BUSINESS LICENSE

Office Use Only	
Date Received	1/14/16
Fee Paid	25.00
Rec'd By	Stephen Nelson

Name Lesli Dustin  
Address 169 W 3300 S  
Phone 770-7816 Cell 770-7816 Fax \_\_\_\_\_  
Email leslidustin@gmail.com

Please Note: The owner/operator of the business on this application must live at the address stated above. Nibley City cannot issue conditional use permit/business licenses to persons who do not live at the address where the business will be located.

Please describe the reason you are requesting a conditional use permit/business license:

☒ Home Office    ☐ Sales    ☐ Manufacturing    ☐ Day Care  
☐ Other (please describe): \_\_\_\_\_

Proposed business name: Dustin Business Services, LLC

Description of business: bookkeeping

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: will not receive clients or visitors.

Do you plan to employ persons not living at this address as part of the business? Y ☒ N

Will those employees be working in your home or at another location? Please describe: \_\_\_\_\_

Do you plan to conduct any of the business in an accessory building at this address? Y ☒ N

How many clients will visit this location weekly? 0

Describe how you will provide parking for client visits (if applicable): \_\_\_\_\_

Will you have business vehicles which will require parking accommodations? Y ☒ N

If so, please describe the vehicles and parking plans: \_\_\_\_\_

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? few, if any. USPS or UPS

Will you be able to provide adequate indoor storage for these deliveries? ☒ Y ☐ N

If applicable, describe any signs at this address which will advertise the business: none

## **An Ordinance Regulating Home Occupation Businesses Within Nibley City**

### **A. Definition**

1. A home occupation is defined as “The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that:
  - a. individuals who perform occupation related activities at the home occupation residence must also live at that residence
  - b. individuals who do not live at the home occupation residence must not report to that residence for occupation-related activities
2. Accessory buildings may be used to conduct all or a portion of the home occupation, so long as the use is contained within the accessory building.
3. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified as a home occupation rather than being classified by the actual activity associated with the business, exceptions as outlined in this ordinance.

**Comment [SP1]:** We need to decide whether or not we are going to allow the use of accessory buildings so that there is not a conflict between this section and H.4

### **B. Home Occupation License Required.**

1. No person may conduct a business within a residence, the lot upon which it sits or within any of its accessory structures except as a home occupation in compliance with this Chapter. Except as specifically provided by Nibley City Ordinance, it shall be unlawful for any person to engage in or conduct a Home Occupation without having first procured a Home Occupation license from Nibley City, sometimes hereinafter to be called a "license". The license shall be renewed each year.
2. Persons who fail to renew their license for each calendar year and pay any associated fees, shall be deemed to no longer have a valid home occupation license and shall make a new application to the Nibley City Planning Commission for review and approval of a home occupation license, and shall be subject to all federal, state and local laws in effect at the time the new application is made.

### **C. Planning Commission Approval Required**

1. Subject to the provisions of this ordinance, the Nibley City Planning Commission shall review and approve, deny, or approve with conditions, all applications for a home occupation, except for those uses which meet the definition of “Home Office”, as defined in Title 10 of the Nibley City Code. Uses meeting that definition may be reviewed and approved by City staff.
2. City staff may refer to the Planning Commission applications which meet the definition of “Home Office” if, in the determination of staff, there are circumstances which require the Planning Commission’s review and approval.

### **D. Purpose.** The purposes of this section are to:

1. Provide an opportunity for home occupations as an accessory use when they are compatible with the neighborhoods in which they are located. A home occupation shall not be construed to mean an employee working in his home in the service of an employer whose principal place of business is licensed at another location.
2. Provide an opportunity for a home occupation to engage in the business of child care and other group child activities and encourage this type of home occupation to draw clients/customers from their immediate neighborhood.
3. Guide business activities which are not compatible with neighborhoods to appropriate commercial zones.
4. Safeguard peace, quiet, and domestic tranquility within all residential neighborhoods. Protect residents from the adverse effects of business uses being conducted in residential areas ~~from including, but not limited to,~~ noise, nuisance, traffic, fire hazards and other possible business uses that create significant impacts on a residential neighborhood.

E. **Neighborhood Disturbance.** The home occupation shall not interfere with or disrupt the peace and quiet of the neighborhood, and is subject to Nibley City ordinances regarding nuisances and noise disturbances. The home occupation shall not create or be associated with or produce odor, smoke, dust, heat, fumes, light, glare, noises or vibrations, excessive traffic, or any other adverse effects within the neighborhood, and shall not compromise the residential character of the neighborhood where such business is permitted to exist.

F. **Renter/Owner Responsibility.** If the applicant for a home occupation license rents or leases the property wherein the home occupation is intended to be conducted, the applicant must provide a letter of acknowledgment and consent from the property owner at the time the application is submitted to the Business License Office.

G. **Interior Alterations/Remodeling.** Alterations of the principal dwelling for the purpose of accommodating the home occupation are prohibited if such alteration eliminates the kitchen, and/or all of the dining areas, bathrooms, living areas, or all of the bedrooms. A building permit shall be obtained for remodeling, and the primary use of the dwelling as a home or residence shall, at all times, be preserved.

- H. **Restrictions.** The following restrictions shall apply to any home occupation:
1. All home occupations are required to obtain and maintain a current city business license and meet all requirements of this code.
  2. All home occupations shall comply with federal, state and local laws and ordinances.
  3. Home occupations shall not involve the unauthorized use of hazardous or annoying substances or processes nor shall they create any hazardous or offensive odors, noises, fumes, gases, dust, radiation, glare, electrical interference, vibrations, heat, wastes, pathogens or any other harmful substances or effects.
  4. Home occupations shall be conducted entirely within the dwelling unit and may not occupy, with goods, materials, equipment or activities, any attached garage or lot area.

Training activities such as swimming, tennis and horseback riding or daycare or preschool activities may be conducted outdoors; provided, that no nuisance is created.

5. All vehicles and other equipment requiring parking accommodations, or which may not be reasonably stored in a business related vehicle, shall be parked out of the right-of-way and out of the setback areas on the property where the home occupation is conducted, with the exception of a car or light-duty truck which is used as part of the business.
6. Home occupations shall not cause excessive demands on city services.
7. Employees of home occupations shall consist only of members of the family residing in the dwelling or other individuals whose activities are conducted away from the residence and the real property on which it is located.
8. The exteriors of dwellings may not be altered from a residential character as a result of or to enhance a home occupation.
9. Home occupations involving pedestrian or vehicle traffic shall be conducted only between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M.
10. More than one home occupation may be conducted in a dwelling; provided, that these regulations are followed as though there were only one occupation in the dwelling.
11. The City may place additional restrictions on a home occupation relating to hours of operation, parking, traffic or other matters as it deems necessary to mitigate impacts on the neighborhood and the city in general. The additional restrictions may be imposed both before and after the issuance of a home occupation license to address anticipated impacts and those impacts found necessary to address once the business has begun operation.

**I. Preschool/Daycare**

1. Preschools for a maximum of eight (8) students may be conducted as home occupations with approval of a conditional use permit/concept plan with the following and other conditions as determined by the Planning Commission:
  - a. Maximum two (2) sessions per day and maximum four (4) sessions per week. Sessions shall be a maximum three (3) hours in length.
  - b. Students' ages shall be three (3), four (4) or five (5) years old.
  - c. Days and hours of operation shall be provided for review.
  - d. All safety and building codes shall be met and a building permit, if necessary, shall be obtained for remodeling.
  - e. All state licensing requirements will be met.
  - f. All other requirements of this chapter and other local, state and federal laws shall be met.
2. Child daycare/preschool for more than eight (8) children shall be classified as daycare, commercial rather than a home occupation.

**J. Prohibited Home Occupations.**

1. The following uses, by nature of the occupation, substantially impair the use and value of residentially zoned areas for residential purposes and are, therefore, prohibited:
  - a. Mortuary, crematorium, columbarium, mausoleum

- b. Animal hospitals or veterinary services.
- c. Clinic, dental office, medical office, chiropractic office, or hospital.
- d. Junk yard, auto wrecking yard, or salvage yard.
- e. Stables, kennels, pet stores, or any other commercial animal breeding business, or similar activities are prohibited.
- f. Storage, service, repair, sales or rental of ambulance, tow truck, recreational vehicle, water craft, automobiles, ATV, or other motorized vehicles.
- g. Fitness or health spa facility.
- h. Boutiques, sample sale, or craft shows.
- i. Auto body repair, motor vehicle repair.
- j. Use of specified chemicals, pesticides and flammable/combustible materials, and including any other process or business where current, adopted Building and Fire Codes would require an Operational Permit.
- k. Client visits in excess of ten (10) per day.

**Comment [SP2]:** We should itemize what chemicals we are going to prohibit.

K. **Application.** The following items shall be submitted to the city business licensing office in applying for a home occupation business license:

- 1. Application forms as provided by the city and the associated fee as determined by the Planning Commission and approved by the City Council.
- 2. Description of the nature of the home occupation and information as requested in the application.
- 3. Hours of operation and the number of customer visits to be made each day.
- 4. Other government approvals required for conducting the home occupation.
- 5. Signed affidavit by the applicant that all requirements and conditions of the city will be followed.

**Comment [SP3]:** This is not suggesting that the applications are approved by Council. It is simply stating that the fees are set by Council.

L. **Application Appeal Procedure.** If the Planning Commission finds that certain conditions cannot be met, that the proposed home occupation is not appropriate or is inconsistent with the definition and purpose of this chapter or if reasonable and legitimate objections are filed, the application shall be denied. Applicants wishing to appeal the denial of a home occupation permit-license may appeal the decision of the Planning Commission by following the appeal provisions outlined in Title 10-3 of the Nibley City Code.

M. **Suspension/Revocation**

- 1. A home occupation may be commenced only upon completion of all plan improvements as stipulated in the accompanying approval. The home occupation will be conducted in conformance with approved plans and conditions.
- 2. Application to amend a home occupation license may be requested by following the application procedures in this chapter. A home occupation license may be suspended or revoked by the Planning Commission, after a public hearing, if it is shown that one or more of the following conditions exist:
  - a. The use is conducted prior to completion of all required improvements and conditions.



- b. The use is established or conducted contrary to any of the approved plans or conditions.
  - c. The use is conducted contrary to local, state, or federal laws.
  - d. The use is creating a nuisance or hazard, whether it be through the condition of the property, the conduct of the business or the behavior of the occupants of the residence where the home occupation is conducted or for any other reasonable and legitimate basis as determined by the Planning Commission.
  - e. The applicant supplied false or misleading information when applying for a home occupation license; or withheld relevant information on the application or allowed such to happen.
3. Prior to holding a public hearing to consider the suspension or revocation of a home occupation license, the City shall give at least fourteen (14) days prior written notice, mailed or otherwise delivered to the address listed on the application as the address where the Home Occupation is being conducted, of the alleged violation or the manner in which the property no longer complies with the requirements for the Home Occupation, with the opportunity to correct the problem during said time. Any substantiated, unresolved complaint, regarding the violation of standards, qualifications or application requirements or any of the above violations, which is received and verified by the City, against any Home Occupation licensed under this section, will require that any licenses be revoked and the business cease to operate. As part of the public hearing or after it is completed, the holder of the home occupation license shall be given an opportunity to present evidence and/or witnesses in support of the license-holder retaining the license.
4. Any person/persons whose license has been suspended or revoked by the Nibley City Planning Commission, and who wishes to appeal said revocation may appeal the decision of the Planning Commission by following the appeal provisions outlined in Title 10-3 of the Nibley City Code.
- 4.5. Any action related to the business license of the home occupation license holder shall be taken in accordance with the provisions of Title 3, Chapter 1 of this Code.

**Comment [SP4]:** This code section references our overarching business license regulations.