

**Elwood Town, Utah**  
**Title 10 – Zoning Ordinance**

**CHAPTER 10.06**  
**USES**

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**10.06.010 Uses**

All uses allowed by this title shall be identified as:

- A. Permitted use.
- B. Conditional use.
- C. Temporary use.
- D. Nonconforming use.

**10.06.020 Prohibited Uses**

Any use which is not identified by this title as either a permitted use, a conditional use, or a temporary use is hereby determined to be a prohibited use. A prohibited use shall not be allowed or authorized within the incorporated area of the Town.

**10.06.030 Application Required**

All requests for a permitted use, a conditional use, or a temporary use shall be a made on an application form provided by the Town of Elwood.

**10.06.040 Permitted Uses**

The Planning Commission is authorized to issue all required approval of zoning for a permitted use. As required by the Town building codes, all requests for a permitted use shall also provide an application for a building permit and/or application for a business license, as applicable. No permitted use shall become effective until an approval is received from the Planning Commission and a building permit and/or business license, as required, is issued by the Town Building Department. The Planning Commission is also authorized to impose such other reasonable conditions as provided in section 10.06.050 of this chapter.

**10.06.050 Standards and Criteria for Permitted Use**

All applications for a permitted use are required to comply with the requirements of this title, the requirements of the Town Building Codes, and the Town Business License codes (Title 14) as adopted and as applicable. A permitted use application shall be reviewed in accordance with the following general standards and criteria:

- A. The Planning Commission shall review the permitted use request and determine if the request meets the following requirements:
  - 1. The use is identified as a permitted use within the zoning district as identified in Chapter 10.09, "Schedule of Zoning Uses", of this title.

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2. The use complies with the requirements for the zoning district with respect to minimum area, setback requirements, height, buffer and landscape standards, maximum coverage, parking, unloading, and all other requirements applicable to the district.
  3. The use does not have an adverse effect on any sensitive areas, as defined by this Section 10.18 of this title.
  4. The use complies with all road dedication requirements of the Town and provides necessary infrastructure as required by the Elwood Town Public Works Standards and/or Utah Department of Transportation.
  5. The use meets all requirements of the Bear River Health Department and Utah Department of Environmental Quality as required and applicable.
- B. Upon finding that the proposed use, building or structure complies with the standards and requirements of this title, the Planning Commission shall issue an approval of zoning. With the receipt of a zoning clearance, the proposed building or structure shall be reviewed for compliance with the Town building codes, as adopted. If the request for a permitted use complies with the requirements of this title, the Town building codes, as adopted, and the requirements of the Bear River Health Department or the Utah Department of Environmental Quality, as applicable, the permitted use shall be authorized.

**10.06.060 Conditional Uses**

- A. The purpose of the issuance of a conditional use permit is to allow the proper integration into the Town of those uses which may be suitable in specific locations or if such uses are designed, arranged or conducted on the site in a particular manner.
- B. A conditional use permits may be approved by the planning commission as provided by this title for any of the uses for which a conditional use permit is required as identified in Section 10.09, "Schedule of Zoning Uses", of this title. The planning commission is also authorized to impose such other reasonable conditions as provided in Section 10.06.070 of this chapter.

**10.06.070 Standards and Criteria for Conditional Use**

- A. The planning commission shall review a conditional use request with the following general standards and criteria:
1. The use applied for at the location proposed is necessary or desirable to provide a service or facility that will contribute to the general well being of the area and the Town;
  2. Compatibility of the proposed use with the intent, function and policies established in the Elwood Town General Plan;
  3. Compatibility of the proposed use with the character of the site, adjacent properties and other existing and proposed development;
  4. The availability of, or ability to provide adequate services, drainage, parking and loading space, fire protection, and safe transportation access and vehicular circulation;
  5. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
  6. If the planning commission determines that the standards of this section cannot be met and that adequate mitigation measures cannot be imposed to bring the use into conformity with the standards and criteria, the planning commission may deny the request for a conditional use permit.
- B. In approving a conditional use permit, the planning commission may impose such reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, flood control, time limits, and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with.

**10.06.080 Revocation or Modification of Conditional Use Permit**

- A. If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the planning commission shall schedule the item for consideration at a regular meeting. A minimum notice of fourteen (14) days prior to the meeting shall be provided to the owner and the operator of the approved conditional use permit.
- B. A conditional use permit may be modified or revoked by the planning commission if the planning commission finds that one or more of the following conditions exist:
1. The conditional use permit was obtained in a fraudulent manner.

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2. The use for which the conditional use permit was granted has now ceased for at least eighteen (18) consecutive calendar months.
3. The nature of the use for which the conditional use permit was granted has changed or the intensity of use has increased beyond that originally approved.
4. The use constitutes a nuisance.
5. One or more of the conditions of the conditional use permit have not been met.

**10.06.090 Conditional Use Permit to Run with the Land**

All conditional use permits authorized and approved as required by this title are determined to run with the land.

**10.06.100 Temporary Uses**

- A. The purpose of the issuance of a temporary use is to allow the establishment of a use on a temporary basis which will not create an undue risk to the public health, welfare and safety, and which will not create a nuisance. Such uses may include, but is not limited to, construction offices, or the storage of materials and equipment necessary for construction, and seasonal activities such as a corn maze, pumpkin patch/stand, fireworks stand, and Christmas tree lot.
- B. A temporary use shall be approved by the Planning Commission, as provided by this title, for any of the uses for which a temporary use is identified in Chapter 10.09 "Schedule of Zoning Uses", of this title. A temporary use shall only be authorized by the Planning Commission for a period of up to six (6) months. As required by the Town building codes, all requests for a temporary use shall also provide application for a building permit and/or application for a business license, as required by the Town. No temporary use shall become effective until approval is received from the Planning Commission and a building permit and/or business license, if required, is issued by the Town. The Planning Commission is also authorized to impose such other reasonable conditions as provided in Section 10.06.110 of this chapter.

**10.06.110 Standards and Criteria for Temporary Uses**

In approving a temporary use, the Planning Commission may impose such reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, time limits, and other items for the temporary use as deemed necessary for the protection of adjacent properties and the public interest. The Planning Commission may require guarantees or other evidence that such conditions will be met and complied with.

- A. The Planning Commission shall reviewed a temporary use request with the following general standards and criteria:
  1. The property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that it will not be materially detrimental to adjoining and surrounding properties.
  2. The use will cease within a maximum of six (6) months from the date of issuance of the temporary use permit.
  3. The use will comply with all requirements of the Town building codes, Town business ordinance (Title 14), Bear River Health Department, and all other requirements as applicable.
- B. In approving a temporary use, the Planning Commission may impose such reasonable conditions or restrictions as deemed necessary to secure the purposes of this title. These conditions may include:
  1. That the site will be suitably maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect, preserve and/or enhance the appearance and character of the area.
  2. The regulations of Section 10.22 "Off-Street Parking", of this title, dealing with parking facilities, including vehicular ingress and egress, loading and unloading areas, and the surfacing of parking areas and driveways to specified standards.
  3. The provision of an adequate water supply, sewage disposal, flood control and fire protection.
  4. The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.
  5. Does not have an adverse effect on any sensitive areas, as defined by this title.
  6. The regulation of operating hours for activities affecting normal schedules and functions.
  7. The regulation of signs as per Section 10.23 "Sign Regulations", of this title.

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8. The provision of a reasonable guarantee, bond or other surety, as determined by the zoning administrator, that the proposed temporary use will be maintained and operated in compliance with all conditions and requirements.
9. Such other reasonable conditions determined necessary by the Planning Commission to allow the establishment and operation of the proposed temporary use in an orderly and efficient manner.

**10.06.120 Appeals of Permitted Use, Conditional Use or Temporary Use Decision**

Any person adversely affected by a decision of the Planning Commission or the Land Use Authority in the approval or denial of a permitted use, conditional use or temporary use may, within fourteen (14) days after the decision is made, file an appeal of the decision to the Appeal Authority specifying the nature of the appeal and the grounds on which they are adversely affected.

**10.06.130 Nonconforming Use, Lot or Structure:**

A nonconforming use, lot or structure legally existing at the time this title becomes effective, or at the time of an amendment to this title, or by some action by a federal, state or local government entity may continue, provided the use, lot or structure has been maintained continuously. A nonconforming use, lot or structure shall not be enlarged upon, expanded or intensified, except as provided for in subsection 10.06.140 of this chapter.

**210.06.140 Standards and Criteria for Nonconforming Use, Lot or Structure**

A nonconforming use, lot, or structure that legally exists at the time this Ordinance becomes effective, or at the time of an amendment to this Ordinance, or by some action by a Federal, State, or local government entity may continue provided that the use, lot, or structure has been maintained continuously.

**A. Alteration of a Nonconforming Use, Lot, or Structure**

1. A nonconforming use, lot, or structure shall not be enlarged upon, expanded, or intensified. A nonconforming use, lot, or structure may apply to the Appeal Authority to be enlarged or modified by meeting the following criteria:
  - a. The change is in harmony with the surrounding neighborhood and in keeping with the intent of the Comprehensive Plan and this ordinance.
  - b. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity.
  - c. Reasonable conditions may be attached to the approval in order to assure compatibility with the surrounding properties.
2. A nonconforming use or structure may be maintained and repaired. On any work being completed that requires a building permit, a zoning approval shall be issued that identifies the following: the nonconformity; its legally nonconforming status; and that the use, lot, or structure is not being enlarged, expanded, or intensified
3. Any reconstruction or restoration of a nonconforming structure shall comply with both this Ordinance and with Utah State code § 10-9a-511(3).

**B. The determination of an abandonment of a nonconforming use, lot, or structure shall comply with Utah State code §10-9a-511(4).**