

# Planning Commission Appeal Information

Tuesday, November 26<sup>th</sup>, 2024 | 7:00 p.m. | Council Chambers



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**STAFF REPORT  
CITY OF BROWNSVILLE PLANNING COMMISSION**

Report Date: August 15<sup>th</sup>, 2024

Hearing Date: August 26<sup>th</sup>, 2024

PROPOSAL: CONDITIONAL USE REQUEST TO OPERATE A MECHANICAL AUTO REPAIR SERVICE IN THE LOW-DENSITY RESIDENTIAL ZONE

APPLICANT(S) JOE AYALA  
PO BOX 786  
BROWNSVILLE, OREGON 97327

LOCATION: T13S, R02W, SEC. 31DA TAX LOT 0400

ZONING: LOW-DENSITY RESIDENTIAL

COMPREHENSIVE PLAN DESIGNATION: RESIDENTIAL

EXHIBITS: A. VICINITY MAP  
B. LOCATION MAP  
C. APPLICATION  
D. ORDINANCE



**SUMMARY:**

The City received a land use application request approval for a Conditional Use Permit to operate a mechanical auto repair service out of a shop located at the primary residence of Mr. Larry & Mrs. Linda Williams, at 1013 Kirk Avenue, in the Low-Density Residential Zone. The applicant proposes to provide services during the hours of 8:00am to 5:00pm, Monday through Friday. The applicant has stated that outside storage includes two items: a cherry picker & an industrial step. The applicant does not propose to install signage or make any additional changes to this property for the proposed use. As the applicant does not own the proposed property, a letter from the property owners has been submitted to the City with this application. Off-street customer parking is available between the shop (approx. 1000 square feet) & the hay barn located on the north side of the property, and approximately 200 feet from Kirk Avenue. The applicant seeks permission from the Planning Commission to park in a particular location on Kirk Avenue. Please see site plan.

**Exhibit A -Vicinity Map**



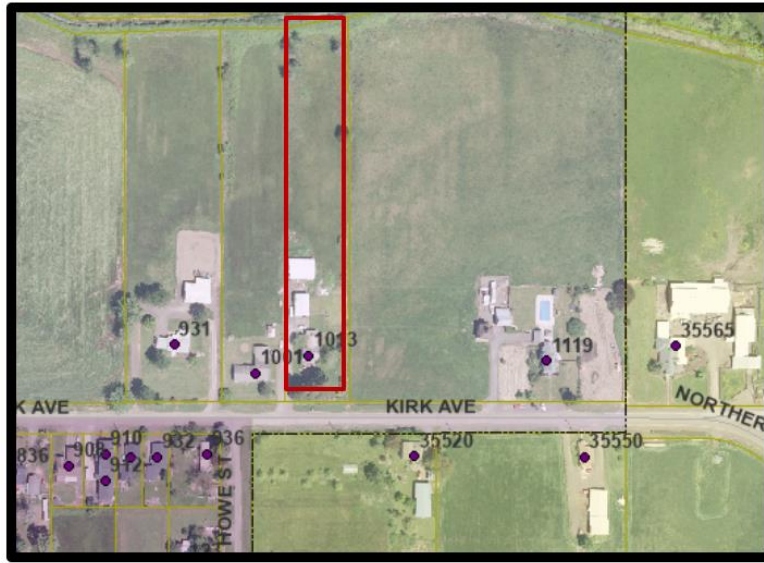
Surrounding land uses and zoning are as follows:

	<b><u>Zoning</u></b>	<b><u>Land Use</u></b>
North:	Special Development	Bare Land
East:	Low Density Residential	Single-Family Dwellings
	EFU Farmland & Agricultural	Single-Family Dwelling w/AG Use
South:	Medium Density Residential	Single-Family Dwellings
	EFU Farmland	Single-Family Dwellings
West:	Low Density Residential	Single-Family Dwellings

This property is not in the 100-year flood plain.

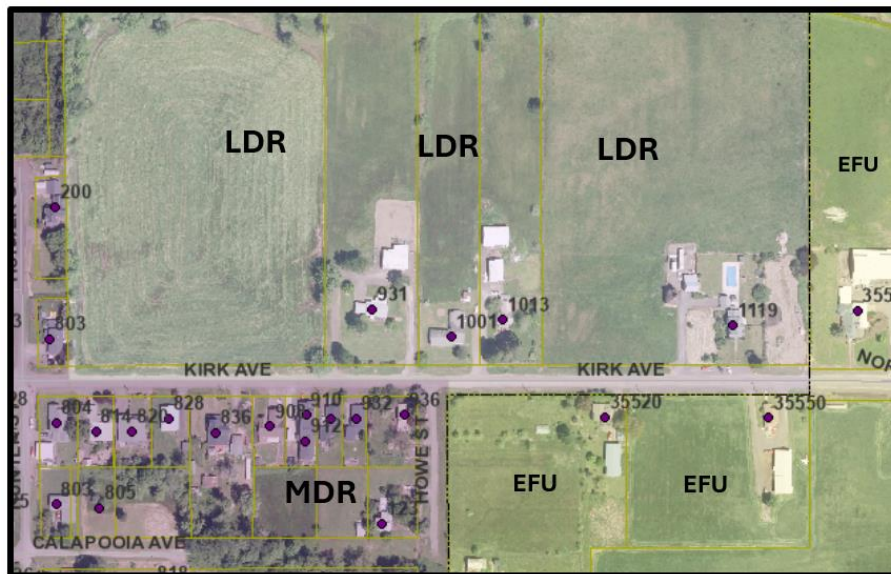


**Exhibit B – LOCATION MAP & ZONING MAP**  
**MAP & TAXLOT 13S02W31CA2900**



**ZONING LEGEND**

**LDR: Low Density Residential | MDR: Medium Density Residential | EFU : Exclusive Farm Use (County Zoning)**



**WRITTEN PUBLIC COMMENT**

As of August 15<sup>th</sup>, 2024, no written public comment has been submitted regarding the applicant’s Conditional Use application. All written public comments received after August 15<sup>th</sup>, 2024, will be submitted into the record at the Planning Commission hearing.



## **APPLICABLE CRITERIA AND REQUIREMENTS**

**Brownsville Municipal Code Chapter 15.125.010 through Chapter 15.125.050 provides procedures and criteria for considering a Conditional Use request.**

### **BMC 15.125.010**

In judging whether a Conditional Use should be approved, approved with modifications, or denied, the Planning Commission shall weigh the proposal's appropriateness and desirability for the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable. Home occupations are required to obtain a conditional use permit in the event they generate noise, traffic or other factors which reasonably affect neighboring properties in a negative manner. In making its decision, the Planning Commission must adopt Findings of Fact addressing the following decision criteria listed in Chapter 15.125:

- 1. The proposal shall be consistent with the applicable policies of the Comprehensive Plan, the applicable provisions of the zoning code and other applicable policies, regulations and standards adopted by the City of Brownsville.**

### **Consistency with the Comprehensive Plan:**

***Finding:*** Comprehensive Plan Policies that apply to this proposal are **Land Use/Residential Lands P-L2 & Land Use P-L55.**

Comprehensive Plan Policy P-L2 states: The City of Brownsville will continue to allow home occupations which do not distract from or interfere with the dominant use of the area in residential neighborhoods.

***Staff finds that although the property owners have not applied for the conditional use, it is proposed to be on their property, which is in a residential zone. Staff finds that criteria found in Policy P-L2 are applicable to this proposal.***

Comprehensive Plan Policy P-L55 states: The City of Brownsville shall review all ... conditional uses for the following factors:

#### **A. Will all public facilities (water, sewer, streets) be built to City standards?**

***Finding:*** The proposed use would utilize an existing shop located behind an existing single-family residence on an existing street.

#### **B. Will the proposed development adversely impact the surrounding uses?**

***Finding:*** The proposed use will be operated from a fully enclosed shop, approximately 1000 (one thousand) square feet in size. The distance from nearby residences ranges from approximately 80 (eighty) feet to approximately 440 (four hundred-forty) feet to the proposed use. The applicant stated that electric tools are used for lower noise. Additional conversations with the applicant determined that air tools are used sparingly, and only as a last resort. The application indicates hours of operation will be 8am – 5pm, Monday through Friday. Further conversation with the applicant confirmed no weekend appointments will be scheduled.



**C. Will the proposed development adequately meet pedestrian and non-motorized vehicle needs?**

**Finding:** As the proposed use is a mechanical auto repair shop, this criterion does not apply to this proposal.

**D. Will all private utilities be available to the entire development?**

**Finding:** The proposed use is located on the residential premises of an existing single-family dwelling; no new utilities are required for the use.

**E. Will adequate fire protection be available? (Functional hydrants, proper water pressure and vehicle access.)**

**Finding:** The proposed use abuts Kirk Avenue, which has sufficient access for emergency vehicles.

**F. Will the proposed development meet all requirements of the zone in which it is located?**

**Finding:** The proposed use requires a conditional use permit to operate, Conditions of Approval can be imposed, and zone requirements shall be followed.

**G. Is landscaping a part of the site plan?**

**Finding:** The proposed use is located at the rear of the property and approximately 160 (one hundred sixty) feet from the street. This criterium does not apply to this proposal.

**H. Is drainage and erosion addressed in the site plan?**

**Finding:** The proposed use will utilize an existing shop, and no new development is proposed; this criterium does not apply to this proposal.

**I. Will the proposed development remove, damage, or be detrimental to any identified historic or prehistoric structure, object, site or city landmark?**

**Finding:** The City has no record of identified historic, prehistoric structures or objects or city landmarks at this site.

**J. What effect will the proposed development have on existing traffic circulation?**

**Finding:** The applicant has provided a site plan showing parking availability inside and outside an existing pole building in the rear of the property. Conversations with the applicant & the property owner indicate that there is also space between the pole building & shop for vehicles. As the driveway is shared by another residence, staff recommends a condition of approval addressing the total number of customer vehicles allowed on the premises.

**K. Will the proposed development have a negative visual impact on the community or the immediate vicinity?**

**Finding:** As stated earlier in the report, the proposed use is in an existing shop & pole barn, a construction that is common to surrounding residential areas. The proposed number of vehicles on the property would not be unlike that of a family of four, each with their own vehicle. The closest residence is approximately eighty feet (80') west of the shop & one hundred twenty-five feet (125') west of the pole barn. Other residences are two hundred feet (200') or more.

**Staff find the proposed use, with Conditions of Approval, will not have a negative visual impact on the community or the immediate vicinity.**



**L. Can water and sewer lines be extended to the proposed development economically?**

**Finding:** City utilities are existing and available to this property; the extension of utilities is not needed for this proposal.

**M. Will sufficient lighting be provided?**

**Finding:** Per the applicant, exterior lighting is not used for this proposal.

**N. Are there any possible geologic or flood hazards?**

**Finding:** The proposed development is not located in the 100-year Floodplain. There are no known geological or flood hazards in the proposed development location.

**Staff finds that the applicant's proposal is consistent with the applicable policies of the Brownsville Comprehensive Plan.**

**Consistency with the Zoning Ordinance**

**BMC 15.80.050 (B)1**

**Chapter 15.80.050 Low Density Residential (B)1 of the Brownsville Municipal Code states:**

- B. Conditional Uses Permitted. In an LDR zone the following uses and their accessory uses may be permitted, subject to the provisions of **Chapter 15.125 BMC**:
1. Home occupation.

**Finding:**

The applicant is proposing to operate a mechanical auto repair shop in a residential zone. The applicant has received permission from the property owner and properly applied for a Conditional Use Permit for said purposes.

**Staff finds the request for a conditional use permit to operate as above in a Residential zone is consistent with the Zoning Ordinance.**

2. The location, size, design and operating characteristics of the proposal will have minimal adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area, considering such factors as:
  - A. Location, size and bulk of buildings.
  - B. Location, size and design of parking areas.
  - C. Screening, landscaping, exterior lighting, hours of operation, vehicular access and similar factors.



**Finding:**

The applicant provided a site plan showing the existing shop & pole building to be used. Additionally, conversations with the applicant and information from the application provided the following information related to Criteria #2 (B) & (C) on the application:

- A. **Location, size, & bulk of buildings:** *We used electric tool for lower noise. There will be no adding of any other structures.*
- B. **Location, size, & design of parking areas:** *Customer auto will park in pole barn & behind shop. If we may park our trucks on the side of road in front of Larry's house.*
- C. **Screening, landscaping, exterior lighting, hours of operation, vehicular access, & similar factors:** *Monday through Friday. 8:00am – 5:00pm.*

***The proposed use will be operated within the shop, customer off-street parking is available on the property, no exterior changes are proposed, and proposed hours of operation do not appear to be unusual for a residential neighborhood. The applicant has requested to park the vehicles of his and his nephew on the south side of the property, in the City ROW (this request is addressed in the Conditions of Approval).***

***Staff finds the proposed use will have minimal adverse impact on the livability, value or appropriate development of abutting properties and surrounding areas.***

3. **The proposal will preserve those historical, archeological, natural and scenic assets of significance to the community.**

**Finding:**

Archeological, natural & scenic assets of significance do not apply to this proposal.

4. **The proposal will not place an excessive burden on streets, sewage, water supply, drainage systems, parks, schools, or other public facilities to the area.**

**Finding:**

The proposed use does not require extensive use of the city sewage or water supply. The applicant stated that permission to dispose of all oils & antifreeze has been obtained by another auto service in the area. Drainage systems, streets, parks & schools will not be impacted by this proposal.

**RECOMMENDED CONDITIONS OF APPROVAL**

If the Planning Commission elects to approve this request, Staff recommends the following condition(s) of approval:

1. The Applicant shall comply with all requirements of applicable laws, ordinances and development regulations, Uniform Building Code requirements & applicable State regulations.
2. The Property owner shall comply with the provisions of the sign code, if used.
3. The Conditional Use is not transferable and does not run with the property.
4. Hours of operation shall be limited to 8:00am – 5:00pm, Monday through Friday.





- 5. No more than four customer vehicles can be visible from the driveway abutting Kirk Avenue.
- 6. Authorization of the mechanical auto repair business does not include auto body painting.
- 7. Parking: The applicant has requested to park in the City ROW, which is a drainage ditch along the north side of Kirk Avenue. Upon visiting the location, staff is concerned that regular parking in the drainage ditch could create an issue and does not recommend use of this space for parking.
- 8. The applicant may not expand or otherwise operate beyond the proposed level without applying for a new conditional use permit.

**POSSIBLE ACTIONS BY THE PLANNING COMMISSION**

**In considering the proposed amendments, the Planning Commission may take the following actions:**

- 1. Leave the public hearing open to a certain date and time.
- 2. Close the public hearing but provide the applicant and public an opportunity to submit additional written testimony by a certain date and time.
- 3. Close the hearing and make a decision:
  - a. Approval.
  - b. Approval subject to conditions of approval.
  - c. Deny the application.
- 4. Propose Conditions of Approval. If the Planning Commission elects to approve the application, Staff recommends conditions of approval are a part of the decision.

**MOTIONS**

**APPROVAL:** To grant the Conditional Use Permit Application to Joe Ayala, subject to Conditions of Approval & to adopt the Findings of Fact in the staff report dated August 19<sup>th</sup>, 2024.

**DENIAL:** To deny the application because the applicant’s proposed request for a Conditional Use Permit to operate a mechanical repair service on the premises of 1013 Kirk Avenue, in the Low-Density Residential Zone, fails to meet Criteria# \_\_\_\_\_, for the following reason.

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**Exhibit C – APPLICATION**

City of Brownsville  
255 N Main Street, P.O. Box 188  
Brownsville, OR 97327  
P: 541.466.5666 F: 541.466.5118  
TT/TDD 800.735.2900

**Residential Conditional Use Application**  
Fee: \$250.00

DATE 7-30-24

**Application Submittal Includes:**  
 1 Hard Copy    Electronic Submittal    Fee  
 Site plan, drawn to scale, showing the dimensions and arrangement of the proposed development.

**Office Use Only**  
 Submittal Date 7/30/24   Receipt # 434876   Hearing Dates: PC 8/26/24   Council \_\_\_\_\_  
 Date Approved \_\_\_\_\_   Date Denied \_\_\_\_\_

**APPLICANT INFORMATION**

Name of Applicant: Joe Ayala   Phone: 541-409-8112  
 Mailing Address: PO Box 786 Brownsville  
 Applicant is:    Legal Owner    Contract Purchaser    Agent    Renter

**DESCRIPTION OF SUBJECT PROPERTY**

Legal Owner: Larry & Linda Williams   Phone: 541-409-5439  
 Mailing Address: 1013 Kirk Ave Brownsville OR  
 Township 13S   Range 02W   Section 31DA   Tax lot No 400  
 Address of Property: SAME  
 General Location: Fronting KIRK AVE   Side of \_\_\_\_\_   Name of Street \_\_\_\_\_

**DESCRIBE THE PROPOSED CONDITIONAL USE**

Auto Repair

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Residential Conditional Use Application  
City of Brownsville

Page 1 of 4



City of Brownsville  
255 N Main Street, P.O. Box 188  
Brownsville, OR 97327  
P: 541.466.5666 F: 541.466.5118  
TT/TDD 800.735.2900

**EXISTING CONDITIONS**

Zone: LDR Comprehensive Plan Designation Residential

Present Use of Property Residential

Is the property serviced by city sewer and water?  Yes  No

**SUPPORTING REASONS FOR A CONDITIONAL USE REQUEST**

The Brownsville Zoning Ordinance, Section 7.010 specifies criteria that must be addressed before granting a conditional use. Applicants must respond to the following criteria (refer to your site plan where appropriate):

1. The proposal is consistent with the applicable policies of the Comprehensive Plan, the applicable provisions of the zoning ordinance and other applicable policies, regulations, and standards adopted by the City of Brownsville.

Yes

2. The location, size, design and operating characteristics of the proposal will have minimal adverse impact on the livability, value, or appropriate development of abutting properties and surrounding area, considering such factors as:

A. Location, size, and bulk of buildings.

We used electric tool for lower noise there will no  
disturb any other structures

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Residential Conditional Use Application  
City of Brownsville



City of Brownsville  
255 N Main Street, P.O. Box 188  
Brownsville, OR 97327  
P: 541.466.5666 F: 541.466.5118  
TT/TDD 800.735.2900

B. Location, size, and design of parking areas.

Customer Auto will Park in Pole barn & behind shop  
IF we may park our TRUCKS on side of Road Front Larry's  
house

C. Screening, landscaping, exterior lighting, hours of operation, vehicular access, and similar factors.

Monday thru - Friday 8:00 AM - 5:00 PM

3. The proposal will preserve those historical, archeological, natural, and scenic assets of significance to the community and the surrounding area.

N/A

4. The proposal will not place an excessive burden on street, sewage, water supply, drainage systems, parks, schools or other public facilities in the area.

all oils & anti freeze is taking to Point S  
by TRUCK STOP with permission Hwy 228  
Halsey 33180



City of Brownsville  
255 N Main Street, P.O. Box 188  
Brownsville, OR 97327  
P: 541.466.5666 F: 541.466.5118  
TT/TDD 800.735.2900

**STATEMENT**

I (we) hereby certify that the foregoing statements and answers and any other information (such as maps and drawing) attached hereto are true and accurate to the best of my (our) knowledge and belief.

**APPLICANT:**

Joe Ayala                      [Signature]                      7-29-24  
(Name printed)                      (Signature)                      (Date)

\_\_\_\_\_  
(Name printed)                      (Signature)                      (Date)

**OWNER:**

LARRY WILLIAMS                      [Signature]                      7-29-24  
(Name printed)                      (Signature)                      (Date)

LIVIA WILLIAMS                      [Signature]                      7-29-24  
(Name printed)                      (Signature)                      (Date)





We Larry & Linda have given permission  
To Joe Ayala to use our Shop & Pole Barn  
as needed for his auto Repair Business

Larry & Linda Williams  
July 27, 2024



## Chapter 15.125 Conditional Uses

### Sections:

- [15.125.010](#) Authorization to grant or deny conditional uses.
- [15.125.020](#) Conditions which may be placed on a conditional use permit.
- [15.125.030](#) Procedure for taking action on a conditional use application.
- [15.125.040](#) Time limit on permit for conditional use.
- [15.125.050](#) Standards governing conditional uses.
- [15.125.010](#) Authorization to grant or deny conditional uses.

A conditional use listed in this division shall be permitted, altered or denied in accordance with the standards in this chapter. In the case of a use existing prior to the effective date of the ordinance codified in this chapter and classified in this chapter as a conditional use, a change in the use or in lot area, or an alteration of structure, shall conform with the requirements for conditional use and is subject to review, application and fee in the same manner as a newly proposed conditional use. In judging whether or not a conditional use proposal shall be approved or denied, the Planning Commission shall weigh its appropriateness and desirability for the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable. Home occupations are required to obtain a conditional use permit in the event they generate noise, traffic or other factors which reasonably affect neighboring properties in a negative manner. The City Administrator shall make a determination as to whether a conditional use is required. The City Administrator's decision may be appealed to the City Council.

A. The proposal shall be consistent with the applicable policies of the Comprehensive Plan, the applicable provisions of the zoning code and other applicable policies, regulations and standards adopted by the City of Brownsville.

B. The location, size, design and operating characteristics of the proposal will have minimal adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area, considering such factors as:

1. Location, size and bulk of buildings.
2. Location, size and design of parking areas.
3. Screening, landscaping, exterior lighting, hours of operation, vehicular access and similar factors.

C. The proposal will preserve those historical, archeological, natural and scenic assets of significance to the community and the surrounding area.

D. The proposal will not place an excessive burden on streets, sewage, water supply, drainage systems, parks, schools or other public facilities to the area. [Ord. 717, 2009; Ord. 644 § 1, 1996; Ord. 618 § 11, 1993; Ord. 567A § 10, 1987; Ord. 504 § 7.010, 1980; 1981 Compilation § 8-5:7.010.]





**15.125.020 Conditions which may be placed on a conditional use permit.**

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this division, additional conditions which it finds necessary to enforce the Comprehensive Plan and to otherwise protect the best interest of the surrounding area or the community as a whole. These conditions may include but are not limited to the following:

- A. Limiting the manner in which the use is conducted, including restricting the time a certain activity may take place and establishing restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- B. Establishing a special yard or other open space or lot area or dimension.
- C. Limiting the height, size or location of a building or other structure.
- D. Designating the size, number, location and nature of vehicle access points.
- E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.
- F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area.
- G. Limiting or otherwise designating the number, size, location, height and lighting of signs.
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding.
- I. Designating the size, height, location and materials for fences, walls or screening.
- J. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- K. Requiring ongoing maintenance of buildings and grounds and specifying procedures for assuring maintenance.
- L. Providing internal property improvements, such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, recreation areas, landscaping, fencing and screening, in order to enhance the area and protect adjacent properties. [Ord. 504 § 7.020, 1980; 1981 Compilation § 8-5:7.020.]

**15.125.030 Procedure for taking action on a conditional use application.**

The following procedure for taking action on a conditional use application shall be as follows:

- A. A property owner may initiate a request for a conditional use by filing an application with the City.
- B. Two weeks prior to the Planning Commission hearing, the City Administrator shall post notice of the meeting at City Hall, the post office, and the City library. Twenty days prior to the hearing date, notice of the hearing shall be mailed to all owners of record of property within 200 feet of the exterior boundaries of the property for which the conditional use has been requested. The hearing notice shall also be published in a newspaper of general circulation in the City at least twice within the two weeks prior to the hearing. Failure to receive notice does not invalidate any proceedings in connection with this application. If it is required that a state, federal, local or private agency review the conditional use permit, the agency shall be given a minimum of 20 days to submit its comments.



C. The Planning Commission shall hold a public hearing on the conditional use application. The hearing shall be scheduled within 60 days after the request for conditional use is received.

D. Within five days after a decision has been rendered on a conditional use application, the City Administrator shall provide the applicant with written notice of the decision.

E. An action or ruling of the Planning Commission may be appealed to the City Council as provided in BMC [15.75.020](#). [Ord. 618 § 12, 1993; Ord. 504 § 7.030, 1980; 1981 Compilation § 8-5:7.030.]

**15.125.040 Time limit on permit for conditional use.**

Authorization of a conditional use shall be void after two years or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year on request. [Ord. 504 § 7.040, 1980; 1981 Compilation § 8-5:7.040.]

**15.125.050 Standards governing conditional uses.**

In addition to the standards of the zone in which the conditional use is located, and the other standards of this division, conditional uses shall meet the following standards:

A. Home Occupations. A decision for approval of a home occupation shall be based on findings related to the following:

1. The building may be constructed, altered, or changed internally to accommodate the requirements of the home occupation, but the external features of the building shall be the same as those of a residence or accessory building and shall in no way be constructed, altered or changed to resemble a commercial or industrial building.
2. There shall be no exterior storage of materials associated with the home occupation.
3. A home occupation may serve as the base or headquarters of any operation, profession, occupation or business which takes place at any location, or uses or employs no more than two persons other than the members of the family residing on the premises, provided the residential character of the building is maintained and does not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
4. No home occupation shall be allowed which requires special permits from the Department of Environmental Quality or any other state, federal or local governmental agency having appropriate regulatory jurisdiction related to air or water quality or to noise.
5. Any existing home occupation operating without a conditional use permit issued by the City will be a nonconforming use which may not expand or otherwise operate beyond or above the present level. [Ord. 618 § 14, 1993; Ord. 567A § 9, 1987; Ord. 504 § 7.050, 1980; 1981 Compilation § 8-5:7.050.]

RECEIVED  
City of Brownsville  
AUG 19 2024

City of Brownsville  
Land Use Board of Appeal 2024 Ayala Conditional Use  
Attn: Elizabeth Coleman  
PO Box 188  
Brownsville, OR 97327

Clerk \_\_\_\_\_

August 13, 2024

Dear City of Brownsville Land Use Board of Appeal,

As a resident and property owner directly across the street from the proposed Auto Repair Services at the residential property located in the medium density residential zone; I appreciate the opportunity to indicate some significant concerns regarding this proposal.

Auto repair shops release toxic fumes concentrated in Volatile Organic Compounds (VOCs) including polycyclic aromatic hydrocarbons (PAH). Air pollution is one of the most dangerous forms of pollution which can lead to a number of diseases. Exposures to lead dust (Pb toxicity) and fumes while welding, working on radiators, handling batteries, painting car parts, and using lubricants provide toxic sources. Exposure to these toxins may cause poisoning, which can result in cancers and damage to the neurological system. Welding fumes are another concern. Manganese exposures via welding can cause neurological impairments. Silica from sandblasting operations can cause Silicosis which makes individuals more susceptible to lung cancer and C.O.P.D. These products and activities can pose an entire **host of health implications**.

Waste Management: Auto repair shops generate a variety of waste, including used oil, antifreeze, batteries, tires, and other parts. These materials can be harmful to the environment if not disposed of properly. In the course of a day, garages will utilize solvents such as brake cleaner, carburetor cleaner, gasket remover, and parts cleaner. Lubricants are essential and include motor oil, transmission fluid, gear oil, and grease. Many substances are flammable – gasoline, starter fluid, acetylene, and propane to name a few. The use and storage of flammable and oxidizing substances (e.g. gases, solvents, combustible dusts) can create **serious fire or explosion hazards**. As our property is lower in elevation and between the Calapooia River (home to the endangered Oregon Chub), **toxic surface runoff, soil contamination and groundwater contamination are significant environmental risks**. Once groundwater is polluted, it is very difficult and expensive to clean up. The potential for pollution to end up in our drywell and ditch across the street leading directly to the Calapooia River is concerning. Does the location have floor drains? And, if so, is our local sewer utility able to handle these compounds?

**Storage sites for large parts, debris, vehicle parking, etc. are already limited**. Kirk Avenue is the approach for this site and has no curbs or sidewalks. We have already seen non-resident, vehicle 'over flow' parked on the wrong side of the street (headed facing on-coming traffic) in front of this property, or across the street alongside Howe Street adjacent to our property. Additional traffic in our residential area, which may include damaged, and/or leaking vehicles is likely to cause accidents, potential for fire, environmental pollution, and to negatively impact our property condition and value.

In appreciation for the opportunity to submit these comments and concerns.

  
Wanda K. Crannell

8/19/2024

Attn Brownsville, Or City Council,  
I am John J Miller, Owner of 1001  
Kirk Ave.

In response to the issue of using the  
property next door as a small business,  
I have no objections to Joe continuing  
to operate his shop next door.

We share a driveway and the traffic  
has little to no impact on me. While  
I am within 50 feet of his shop, I  
hear little to nothing in my house.

I believe Joe is performing a  
valuable service to the community  
and should be allowed to con-  
tinue to do so.

Thank you,  
John J Miller



City of Brownsville

City Council Members

PO Box 188

Brownsville, Or 97327

August 27, 2024

I am making a complaint about the automotive repair shop being run by Joe Ayala at 1013 Kirk Ave in Brownsville. I am requesting that the city demand the business to cease and desist all operations until all state and county codes are met. At the public hearing before the planning commission last night it was made apparent that Mr. Ayala does not have the required fire mandates, the procedures or equipment necessary for the safe containment of toxic liquids. He does not have the license required to run an auto shop, nor does he have proof of insurance or a building inspection to make sure it is a safe operation. Mr Ayala has been running an auto shop in Brownsville for years with no regulation, he must know that he needs a license to apply as an auto shop. The building housing this operation has no permits and Linn County has no record of it being built, much less inspected. This auto shop was put in without approval and continues to run with the permission of the City of Brownsville. By giving permission for an illegal unlicensed auto shop to continue operations, the City of Brownsville is assuming liability for any damages that may occur.

Sincerely ,

Michael Rodolf

A handwritten signature in black ink, appearing to read "Michael Rodolf", written in a cursive style.



## *Ayala Application*

**To:** Planning Commission Members  
**From:** City Administrator S. Scott McDowell  
 Administrative Assistant Elizabeth Coleman  
**Re:** Mike Rodolf Appointment | September 12<sup>th</sup>, 2024

**Appointment Date** | September 12<sup>th</sup>, 2024 at 3:30 p.m. Attendees included Mike Rodolf, Elizabeth Coleman, and S. Scott McDowell.

**Appointment Purpose** | Local resident Mike Rodolf of 1119 Kirk Avenue requested an appointment to discuss and review his concerns about the Ayala application.

Below are the points discussed:

### Linn County Involvement

Rodolf asked why the City called off Linn County from inspecting 1013 Kirk Avenue. Rodolf said the County told him that the City did not permit the County to inspect the property for items that Rodolf knows are not Code compliant.

Staff never told Linn County not to inspect the property. I told Rodolf that the City would call Megan Sharp after the meeting to clear up this issue. Coleman reviewed the process the City utilizes when dealing with an enforcement issue related to the County working with a client.

Please see the follow-up email Linn County’s Megan Sharp sent Mike Rodolf after this meeting.

Megan Sharp is Linn County’s Code Enforcement Officer.

### Building

Rodolf said that the building located at 1013 Kirk Avenue does not meet code. Rodolf said the building’s wiring is illegal. He said that Linn County has nothing on record about this property.

### Brownsville Municipal Code

Rodolf did not feel that the City should have even allowed this application. He said the Code forbids this kind of application.

Staff read the Code with Rodolf trying to see his point of view. Coleman explained why both the Home Occupation & Conditional Use language was used for the Staff Report.

Staff explanation:

#### **15.125.010 Authorization to grant or deny conditional uses.**

[...] Home Occupations are required to obtain a conditional use permit in the event they generate noise, traffic or other factors which reasonably affect neighboring properties in a negative manner. The City Administrator shall make a determination as to whether a conditional use is required. [...]

Staff decided that the Planning Commission should have review of this home occupation due to these factors. Decades of previous City practice has required auto shop applications to go to the Planning Commission.



### 15.70.030 Definitions.

As used in this division, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

[...]

**Home Occupation.** A "home occupation" may serve as the basis or headquarters of any operation, profession, occupation or business which takes place at any location, or uses or employs no more than two persons other than the members of the family. A home occupation is a lawful activity commonly carried on within a building upon residential premises by members of the family occupying the dwelling and provided the residential character of the building is maintained and does not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

Staff pointed out that the definition says **any** operation, profession, occupation or business which takes place at **any** location, or employs no more than two persons other than the members of the family.

Rodolf said members of the family must work. Department of Environmental Quality's (DEQ) requirements are not met either.

McDowell replied that Joe Ayala and his nephew are working per the application and testimony provided to the Planning Commission. Two people are working at the location which meets the definition. Williams is simply renting the building.

Department of Environmental Quality's (DEQ) requirement regarding air and water quality or noise must be reasonably met by the applicant per the condition found in the Planning Commission's Staff Report should they approve the application. McDowell said that the Department of Environmental Quality (DEQ) is not interested in small operations such as these.

Rodolf said that he was surprised at the lack of requirements for auto shops. McDowell relayed a personal story from years past.

Rodolf contends that the additional cars will mar the historical significance of the area. Rodolf's barn is an historic landmark according to Rodolf. Cars will be sticking out of the garage and parked around the property.

McDowell shared that there are many properties throughout town with many cars due to many adults and children owning cars.

McDowell asked if screening would satisfy this concern. Rodolf said screening would not resolve the concern.

Rodolf said that Williams used to burn the flags for the VFW and sometimes garbage which blows over to his property.

### Meeting Notice

Rodolf questioned Coleman about the meeting notices asking why the renters were not notified. Coleman said that property owners are required to be notified.

### Other Comments



Rodolf said there is no defensible space in case of a fire. People are in and out of his driveway. He stated that the building is not suitable for car storage because it was built as hay storage.

Rodolf asked Coleman about signage. Coleman said that the applicant may install signage as needed.

McDowell said that Williams should make sure that his homeowner's insurance covers this activity, but this is not something the City requires. It is at the sole discretion of Larry Williams. McDowell continued that if he were the property owner, he would require Ayala to carry an umbrella policy protecting the homeowner from liability – but again that is a private matter.

Rodolf asked if the City planned to shut this down until these details were brought to the Planning Commission. McDowell said that the City's past practice is to allow the use until the final decision by the Planning Commission.

**Notes:** Megan Sharp's attached email dated Wednesday, September 18<sup>th</sup>, 2024, pertains to documentation above.

#### **09.24.2024** | *Council Meeting Comments*

Rodolf approached Mayor Craven on Thursday, September 19<sup>th</sup>, 2024, claiming that the City was violating his civil liberties and that he was coming to Council.

Rodolf and his wife, Sharon, attended the Council meeting. Rodolf said Williams and Aceda [Ayala] were running an unlicensed auto shop. McDowell and Coleman allowed the shop to continue. Without even stepping foot on the property, he knows that the building is not code complaint. Rodolf claimed that Staff told the County Staff not to investigate the situation. As a citizen of the United States, he has a right to access to governance which he claims is being denied by McDowell and Coleman.

*Staff Response* | The City has allowed auto shops through the home occupation & conditional use process for decades. The practice of the City has been to allow a use to continue until the Planning Commission renders a decision. Staff at no time stopped any investigation that the County would deem necessary. McDowell and Coleman contacted Megan Sharp who indicated that Linn County does not even perform the kind of investigation Rodolf was demanding.

#### **10.07.2024** | *Rodolf visit to Linn County Planning & Building*

Coleman contacted Sharp due to a message left by Ayala inquiring about an alleged investigation. Sharp indicated that Rodolf had visited County offices on October 3<sup>rd</sup>, 2024, along with subsequent conversation between the two parties. Rodolf told the County that he had contacted the State, and the State was going to inspect the electrical system in the building. Sharp and Goff, Linn County Building Official, told Rodolf that the State would have to catch someone directly violating the State Electrical Code. The State does not randomly inspect properties.

Rodolf indicated that he was going to take legal action against the County and the City. Sharp told Rodolf that if legal action is being considered, he would need to contact the County attorney, and the conversation would be over.



**S. Scott McDowell**

---

**From:** Sharp, Megan <msharp@co.linn.or.us>  
**Sent:** Wednesday, September 18, 2024 7:39 AM  
**To:** Mike Rodolf  
**Subject:** RE: code on kirk

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Sorry about the delay in this email...I have court this week and it seems to take my 1<sup>st</sup> three days of the week.

Mr. McDowell and Mrs. Coleman had a conversation with me last Thursday, September 12<sup>th</sup>, 2024. The City explained their position on the property currently under review by the City Planning Commission. McDowell said the City would be in touch after the Planning Commission renders a decision on the Williams application. McDowell asked a series of questions about Linn County’s authority as it pertains to certain details of enforcement.

Thank you for all you do!

*Megan Sharp*



**Megan Sharp**  
**Code Enforcement**  
**Planning and Building**  
300 SW 4th Avenue | Albany, OR 97321  
Office #: (541) 967-3816  
Fax #: (541) 926-2060  
Email: [CodeEnfrocement@co.linn.or.us](mailto:CodeEnfrocement@co.linn.or.us)  
Website: [www.linncountyor.gov](http://www.linncountyor.gov)

---

**From:** Mike Rodolf <northwest-elect@hotmail.com>  
**Sent:** Tuesday, September 17, 2024 8:33 AM  
**To:** Sharp, Megan <msharp@co.linn.or.us>  
**Subject:** code on kirk

Dear megan did city of brownsville call and ask you to proceed with the complaint on 1013 kirk ave I had a meeting with scott at city hall on 9/12 and he said the city has no right to stop a complaint so I am making sure he did contact you thank you Mike Rodolf 541 9146705

**Elizabeth Coleman**

---

9:57am: 9.30.2024

Per Angelina from the State of Oregon Corporate Division:

Question: What type of licensing does the State of Oregon require for a small auto repair shop located on a residential premises.

Answer: The state of Oregon does not do licensing, for these auto repair shops; it is regulated by the city or the county.



*Elizabeth E. Coleman*

[www.ci.brownsville.or.us](http://www.ci.brownsville.or.us)

PO Box 188 | 255 Main St.

Brownsville, OR 97327

P: 541.466.5880

F: 541.466.5118

# Used Oil Generator Requirements



State of Oregon  
Department of  
Environmental  
Quality

**Hazardous Waste**  
700 NE Multnomah St.,  
Suite 600  
Portland, OR 97232-4100  
Phone: 503-229-5696  
800-452-4011  
Fax: 503-229-5675  
[www.oregon.gov/DEQ](http://www.oregon.gov/DEQ)

## Background

This fact sheet describes state and federal used oil generator requirements. Numerous service and industrial activities generate used oil: auto repair, metalworking, machine lubrication, refrigeration and hydraulic equipment repair. Used oil can be recycled to make new lubricants or used as an industrial fuel under established safeguards. When properly recycled, it is excluded from hazardous waste regulation.

It's important to manage used oil to prevent potential pollution of the air, land, surface water and groundwater. Used oil can contain cancer-causing agents, metal contaminants and organic compounds that filter into the groundwater supply. Such contamination can result in serious human health hazards.

The topics listed below include references for specific rule sections. Federal used oil regulations are in the Code of Federal Regulations, Title 40, Part 279. State used oil regulations are in Oregon Administrative Rules Chapter 340, Division 111. For more detailed information, refer to the specific rules listed in these documents. (See link on page 4).

## What is used oil? (OAR 340-111-0020)

The Oregon Department of Environmental Quality defines used oil as any oil that's been refined from crude or synthetic oil and used as one of the following:

- lubricant
- electrical insulation oil
- hydraulic fluid
- heat transfer oil
- brake fluid
- refrigeration oil
- grease
- machine cutting oil

Used oil does not include the following:

- used oil mixed with hazardous waste except for specific instances
- petroleum and synthetic-based products used as solvent
- antifreeze
- wastewaters from which the oil has been removed
- oil-contaminated media or debris

## What is a used oil generator? (40 CFR 279.1 and 40 CFR 279.20)

A used oil generator is any person by site, whose act or process produces used oil or whose act

first causes the used oil to be regulated.

Generators subject to used oil regulations include but are not limited to: businesses, governments, schools and equipment maintenance facilities.

Used oil regulations in this fact sheet do not apply to:

- persons generating used oil through personal vehicle maintenance
- farmers generating an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm during a calendar year

## Used oil storage (OAR 340-111-0032; 40 CFR 279.22 and 40 CFR, Part 112)

In storage units, used oil must be stored in tanks or containers without leaks and in good condition (no severe rusting, structural defects or deterioration). Containers or tanks must also be covered or closed to prevent rainwater from entering.

## Labeling

Containers and above-ground tanks of used oil must be clearly labeled or marked with the words "used oil." Fill pipes used to transfer used oil to underground tanks must also be clearly marked with the words "used oil."

## Response to used oil releases or spills

Upon identifying a release or spill of used oil to the environment, the used oil generator must stop the release and comply with provisions found in OAR Chapter 340, Division 142.

## Spill prevention planning

Used oil generators may be required, under federal regulations (40 CFR, Part 112) to Spill Prevention Control and Countermeasure Plan requirements if they've used oil storage capacity in excess of the following:

- Above-ground storage tanks and containers equaling or exceeding 1,320 gallons total storage capacity
- Underground storage tanks equaling or exceeding 42,000 gallons total capacity

## Burning used oil in on-site space heaters (OAR 340-111-0035 and 40 CFR 279.23)

Used oil generators may burn used oil in on-site space heaters provided that:

- the heater burns only used oil that the owner or operator generate

**Materials containing or otherwise contaminated with used oil (40 CFR 279.10(c) and OAR 340-111-0010)**

Materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material are not used oil and thus not subject to the used oil rules of 40 CFR 279. A hazardous waste determination should be made on these materials if they are determined to be waste as the hazardous waste regulations of 40 CFR parts 124, 260 through 266, 268, and 270 may apply.

Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil. Wastes not otherwise deemed hazardous but which have a British Thermal Unit (BTU) value of more than 5,000 per pound may be burned for energy recovery as used oil at approved facilities.

Materials containing or otherwise contaminated with used oil cannot be burned for energy recovery as used oil if they contain less than 5,000 BTUs per pound and are subject to hazardous waste regulations.

**Fuels and used oil (40 CFR 279.10(d))**

Fuels such as gasoline, jet fuel, diesel and kerosene and that are unsuitable for their original intended use may be mixed with used oil and the mixture managed as used oil. Fuel needing treatment (such as water removed before incorporation into used oil as a fuel) is not exempt from applicable hazardous waste management regulations.

**Wastewaters contaminated with used oil (40 CFR 279.10(f) and OAR 340-111-0010)**

Wastewaters contaminated with used oil are not used oil and are subject to applicable hazardous waste regulations.

**Used oil containing PCBs (40 CFR 279.1(i))**

Used oil containing PCBs is subject to used oil regulations found in 40 CFR 279 and OAR 340-111, as well as PCB regulations in 40 CFR 761.20 (e).

**Used oil for dust suppressant or pesticide (40 CFR 279.82 and OAR 340-111-0030(1))**

Using regulated used oil as a dust suppressant (road oiling) or as a pesticide is prohibited.

**Burning used oil for energy recovery devices other than space heaters (40 CFR, Subpart G, and OAR 340-111-0010, -0040, -0042 and -0050)**

Generators of used oil may burn their own oil on-site for energy recovery. Specification used oil may be burned on site in furnaces and boilers without notifying DEQ. Depending on equipment size, a DEQ air quality permit may be required. Check with the appropriate DEQ regional office to determine if an air quality permit is needed. Refer to DEQ's Used Oil Burner fact sheet, Used Oil Transporters, Marketers and Collection Facilities fact sheet or the specific rule listed above for more information.

**Used oil filters (40 CFR 261.4(b)(15) and OAR 340-111-0020)**

**Recycling.** DEQ recommends recycling of used oil filters for their scrap metal value. Used oil filters should be crushed or punctured and hot drained to remove oil before recycling. (Hot draining means that the oil filter is drained near engine-operating temperature and above room temperature.) Used oil filters with oil removed are exempt from hazardous waste regulations when recycled for their scrap metal value.

**Disposal.** Used oil filters are exempt from hazardous waste regulations when they're properly processed before disposal as solid waste. This exemption does not apply to "terne plated" used oil filters. Terne plating is an alloy of lead and tin commonly used on larger truck oil filters. Contact the filter manufacturer or retailer to learn if your filters are terne plated.

For used oil filters to be exempt from hazardous waste regulations, they must be gravity drained, using one of the following methods:

- Puncturing the filter anti-drain back valve or the filter dome end and hot draining for at least 12 hours
- Hot draining and crushing
- Dismantling and hot draining
- Any other equivalent hot-drain method that removes used oil

**Choosing a used oil management firm**

As mentioned earlier, used oil can be exempt from hazardous waste regulations when properly recycled. You need to make certain that the firm managing your used oil does so properly. If a firm mismanages your used oil, you may be liable for future cleanup costs and hazardous waste management violations.



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[Admin Login/Signup](#)

# Used Oil Activity Notification

Last updated 07/01/2024

[Back to search results](#)

[Print this page](#)

Apply

### Online

None available.

### By Mail

None available.

### Contact

**Environmental Quality,  
Department of**

Oregon Department of  
Environmental Quality  
700 NE Multnomah  
Street, Suite 600  
Portland, OR 97232  
(503) 729-5696  
DFQINFO@deq.oregon.go  
v

### Fees

License Fee

Description

Exemptions

None

None

### Description

Used oil is produced in many service and industrial activities such as auto repair, metal working, machine lubrication, refrigeration, and hydraulic equipment repair. Used oil can be recycled to make new lubricants or used as an industrial fuel when properly managed. When properly recycled, used oil is excluded from regulation as a hazardous waste. It is important that used oil be properly recycled to prevent potential pollution of the air, land, surface water, and groundwater. Used oil can contain cancer-causing agents, metal contaminants, and organic compounds that filter into the groundwater supply when the used oil is dumped or sprayed as a dust suppressant. Such contamination can result in serious hazards to human health.

### Duration

Permanent -- Site Specific

10/8/24, 3:29 PM

Gmail - Fwd: Oregon OSHA Jurisdiction



Shana Myers <itsme7611@gmail.com>

**Fwd: Oregon OSHA Jurisdiction**

1 message

Diane Ayala <dianeayala56@gmail.com>  
To: Shana Myers <itsme7611@gmail.com>

Tue, Oct 8, 2024 at 9:41 AM

----- Forwarded message -----

From: STEWART Jennifer \* DCBS <Jennifer.Stewart2@dcbs.oregon.gov>  
Date: Tue, Oct 8, 2024 at 9:40 AM  
Subject: Oregon OSHA Jurisdiction  
To: dianeayala56@gmail.com <dianeayala56@gmail.com>  
CC: MCLAUGHLIN Dave \* DCBS <Dave.MCLAUGHLIN@dcbs.oregon.gov>

Hello Joe,

Thank you for contacting Oregon OSHA.

Question: Is a one man auto shop required to have OSHA in place

Answer: Oregon OSHA's jurisdiction covers employers and employees in Oregon but there are some exceptions.

Oregon OSHA generally does not have jurisdiction on sole proprietors who elect not to cover themselves with workers' compensation insurance. The same is true for corporate officers of an LLC who elect not to cover themselves with workers' compensation insurance and when they are the only employee of the LLC, or they strictly perform corporate administrative duties.

Here is a link to our Program Directive "Jurisdiction: independent contractors, limited liability corporations (LLCs), partnerships, corporate officers, and corporate family farms," for more information: pd-231.pdf (oregon.gov)

Please let me know if you have any additional questions.

Jennifer

Jennifer Stewart  
Technical Specialist  
Standards and Technical Division  
Oregon OSHA

10/8/24, 3:27 PM

Gmail - Osha regulations

[webapps.dol.gov](https://webapps.dol.gov)

Those not covered by the OSH Act include: self-employed workers, immediate family members of farm employers, and workers whose hazards are regulated by another federal agency (for example, the Mine Safety and Health Administration, the Department of Energy, Federal Aviation Administration, or Coast Guard).

200 Constitution Ave NW  
Washington, DC 20210  
1-866-4-USA-DOL  
1-866-487-2365  
TTY  
[www.dol.gov](http://www.dol.gov)

#### FEDERAL GOVERNMENT

White House  
Disaster Recovery Assistance  
[DisasterAssistance.gov](http://DisasterAssistance.gov)

<https://mail.google.com/mail/u/0/?ik=b16a43d812&view=pt&search=all&permthid=thread-a:r-2150863623379164382&siml=msg-a:r-26763535182129...> 2/3

The first page is directly from the City of Brownsville's ordinances and describes how the findings of the planning commission must be justified.

The next pages are examples of how a Home Occupation is defined in various cities in Oregon.

Picture #1 is an example showing that the work is done half inside and half outside the building.

Picture #2 shows that wrecked cars are being brought in the body shop which requires a DEQ permit.

Picture #3 shows that tow trucks and Snap On trucks are coming in, increasing traffic in a residential area.

Picture #4 shows that the storage area between the two buildings looks like a junkyard and is an eyesore.

Picture #5 shows a truck that has been there so long that it is being used as storage for trash bags full of garbage or parts.

Picture #6 shows that lifting is being done by non-approved devices and that the building is wired in Romex when the National Electrical code requires all auto shops to be wired in conduit.

Picture #7 shows an electrical panel which is missing the cover between the window and the door . I looked for, but did not see a fire extinguisher anywhere.



The City Administrator shall have the authority to review and approve all building permits, both prior and subsequent to construction, to determine compliance with the provisions of this division. Page 32 of 55

The City Administrator or designee shall have the authority to review and approve all accessory structure permits and fence permits as required by the Brownsville Municipal Code. The City Administrator shall also ensure that the public works standards and design criteria are properly applied and enforced in coordination with the Public Works Superintendent and the City Engineer. Each of the reviews and approvals shall be both prior and subsequent to construction.

Fence requirements can be found in Chapter [15.87](#) BMC. [Ord. 748 § 3, 2015; Ord. 504 § 10.110, 1980; 1981 Compilation § 8-5:10.110.]

**15.75.040 Authorization of similar uses.**

The City Administrator may permit in a particular zone a use not listed in this division, provided the use is of the same general type as the uses permitted there by this division. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone. The decision of the City Administrator may be appealed to the Planning Commission. [Ord. 504 § 10.210, 1980; 1981 Compilation § 8-5:10.210.]

**15.75.050 Form of petitions, applications and appeals.**

Petitions, applications and appeals provided for in this division shall be made on forms provided for this purpose prescribed by the Planning Commission. Applications shall show the actual shape and dimensions of the lot to be built upon; the exact sizes and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use of each building, structure or part thereof; location and number of off-street parking and loading spaces; number of families to be accommodated, if any; and such other information as is needed to determine their conformance with the provisions of this division and of the building code. [Ord. 504 § 10.310, 1980; 1981 Compilation § 8-5:10.310.]

**15.75.060 Fee schedule.**

A fee schedule for applications and permits provided by this division shall be established by separate resolutions. [Ord. 504 § 10.320, 1980; 1981 Compilation § 8-5:10.320.]

**15.75.070 Findings.**

Approval or denial of all land use actions considered by the Planning Commission or City Council shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, the facts relied upon in making the decision and the justification for the decision based upon criteria, standards and facts set forth. Proponents, opponents and City staff may submit proposed findings for consideration by the Planning Commission and the City Council. [Ord. 504 § 10.410, 1980; 1981 Compilation § 8-5:10.410.]

**15.75.080 Interpretation.**

The provisions of this division shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any other provisions of this division or of any other ordinance, resolution or regulation differ, the provisions which are more restrictive shall govern. [Ord. 504 § 10.510, 1980; 1981 Compilation § 8-5:10.510.]

**15.75.090 Inspection and right of entry.**

Whenever they shall have cause to suspect a violation of any provision of the zoning code, or when necessary to investigate an application for or revocation of any zoning approval under any of the procedures prescribed in the zoning code, the City Administrator or the City Administrator's duly authorized

C. The Planning Commission shall hold a public hearing on the conditional use application. The hearing shall be scheduled within 60 days after the request for conditional use is received.

D. Within five days after a decision has been rendered on a conditional use application, the City Administrator shall provide the applicant with written notice of the decision.

E. An action or ruling of the Planning Commission may be appealed to the City Council as provided in BMC [15.75.020](#). [Ord. 618 § 12, 1993; Ord. 504 § 7.030, 1980; 1981 Compilation § 8-5:7.030.]

**15.125.040 Time limit on permit for conditional use.**

Authorization of a conditional use shall be void after two years or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year on request. [Ord. 504 § 7.040, 1980; 1981 Compilation § 8-5:7.040.]

**15.125.050 Standards governing conditional uses.**

In addition to the standards of the zone in which the conditional use is located, and the other standards of this division, conditional uses shall meet the following standards:

A. Home Occupations. A decision for approval of a home occupation shall be based on findings related to the following:

1. The building may be constructed, altered, or changed internally to accommodate the requirements of the home occupation, but the external features of the building shall be the same as those of a residence or accessory building and shall in no way be constructed, altered or changed to resemble a commercial or industrial building.

2. There shall be no exterior storage of materials associated with the home occupation.

3. A home occupation may serve as the base or headquarters of any operation, profession, occupation or business which takes place at any location, or uses or employs no more than two **persons other than the members of the family residing on the premises**, provided the residential character of the building is maintained and does not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

4. No home occupation shall be allowed which requires special permits from the Department of Environmental Quality or any other state, federal or local governmental agency having appropriate regulatory jurisdiction related to air or water quality or to noise.

5. Any existing home occupation operating without a conditional use permit issued by the City will be a nonconforming use which may not expand or otherwise operate beyond or above the present level. [Ord. 618 § 14, 1993; Ord. 567A § 9, 1987; Ord. 504 § 7.050, 1980; 1981 Compilation § 8-5:7.050.]

**Chapter 5.07  
HOME OCCUPATION LICENSE**

## Sections:

- 5.07.010 Purpose.**
- 5.07.020 License requirement, application, issuance, inspection, and revocation.**
- 5.07.030 Review criteria.**
- 5.07.040 Prohibited uses.**

**5.07.010 Purpose.**

The purpose of this chapter is to provide a means for individuals who are engaged in small-scale business ventures in their place of residence in residential zones. The standards contained in this chapter are intended to assure that the standards are consistent with residential uses, and will not have a detrimental effect on neighboring properties. [Ord. 948 § 2, 2016.]

**5.07.020 License requirement, application, issuance, inspection, and revocation.**

In addition to the requirements of Chapter 5.05 HMC, an application for a home occupation license shall meet the requirements of Ord. 948 § 2, 2016.]

**5.07.030 Review criteria.**

A home occupation shall comply with all of the following operating standards:

1. A home occupation shall only be located where permitted by the zone.
2. The home occupation shall only be permitted as an accessory use to the primary use of the house as a residence.
3. In no way shall the appearance or character of the residential property be altered, nor shall it manifest any character inconsistent with the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful enjoyment of their property.
4. The business must be operated only by members of the family who reside at the home, and not more than one person.
5. The home occupation shall not create any offensive noise, vibration, smoke, dust, odor, heat or glare.
6. One sign shall be permitted, as provided in Chapter 18.90 HMC.
  - a. There shall be no display, other than the permitted sign, indicating from the exterior that the residence is a dwelling.
7. There shall be no outdoor storage.
8. There shall not be excessive generation of traffic created by the home occupation, including frequent delivery vehicles.
9. At no time shall there be more than two vehicles parked on the City street adjoining the property belonging to the home occupation. [Ord. 948 § 2, 2016.]

**5.07.040 Prohibited uses.**

The following uses are prohibited as home occupations:

1. Auto body repair and painting.
2. Mechanic, and engine repair.
3. Storage and/or distribution of toxic or flammable materials, which pose a danger to the residence, its occupants, or the neighborhood.
4. Any operation requiring a special permit or any commercial or industrial permits from any environmental agency.
5. Junk and salvage operations.
6. Storage and/or sales of fireworks. [Ord. 948 § 2, 2016.]

## 9.5350 Home Occupation Standards.

Except for garage sales lasting no more than 3 consecutive days no more than 3 times in a year, and day care facilities, which are exempt, home occupations shall be subject to the following standards:

- (1) The home occupation shall be incidental to the dwelling's residential use.
- (2) There shall be no more than 1 non-illuminated sign permitted per each home occupation with a maximum limit of 2 signs per dwelling, consisting of a maximum of 1½ square feet in surface area per sign. The sign shall be attached to the dwelling or home occupation structure.
- (3) There shall be no activity or display, other than the allowed sign, that will indicate from the exterior of the building that the property is being used for any purpose other than a dwelling.
- (4) There shall be no display of materials visible from the street or outside storage other than plant materials.
- (5) The home occupation shall not generate excessive traffic, glare, heat, electromagnetic interference or other emissions that are perceptible beyond the home occupation property. There shall not be regular freight truck delivery more than twice a week.
- (6) The home occupation shall not result in any structural alterations or additions to the dwelling that will change its primary use as a dwelling.
- (7) The dwelling shall not be used as headquarters for the assembly of workers for instruction or other purposes, including dispatch to other locations.
- (8) There shall be a limit of 1 business vehicle per home occupation. In connection with home occupations, a business vehicle is any vehicle that is used in the conduct of the home occupation, or which has the name or logo under which the home occupation activity is conducted painted or otherwise exhibited on the vehicle.
- (9) Other than dwelling residents, there shall be a maximum of 2 employees per dwelling.
- (10) A resident of the dwelling shall be employed in the home occupation. *owner*
- (11) There shall be no motor vehicle or motorcycle repair except to vehicles owned by persons residing on the property.
- (12) A home occupation shall not be permitted in a dwelling located on a flag lot.

(Section 9.5350, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20699, enacted November 13, 2023, effective December 31, 2023.)

## Start a Home Business

Home businesses are generally allowed in residential zones in Salem. There are two options for conducting a home business: Home Occupation or Live Work. Both options allow residents to start and run their small businesses out of their home.

You do not need special approval or a business license to start; however, your business must meet certain standards, which are described below. [[Salem Revised Code \(SRC\) Chapter 700](#)]



## HOME OCCUPATION

### Locational Restrictions

Home occupations are allowed in the following zones:

- Single-Family Residential (RS), Residential Agriculture (RA), Multifamily Residential-I (RM-I), Multifamily Residential-II (RM-II), Multifamily Residential-III (RM-III), Commercial Office (CO), Retail Commercial (CR), General Commercial (CG), Central Business District (CB), West Salem Central Business District (WSCB), Fairview Mixed Use (FMU), South Waterfront Mixed-Use (SWMU), Neighborhood Hub (NH), Mixed Use-I (MU-I), Mixed Use-II (MU-II), Mixed Use-III (MU-III), Mixed Use-Riverfront (MU-R), Edgewater/Second Street Mixed-Use Corridor (ESMU), Capital Mall (PM), Industrial Commercial (IC), Industrial Park (IP), and General Industrial (IG)

### Types of Businesses

Home occupations can provide a service but cannot include on-site sales. Some examples of businesses that are allowed include the following:

- Massage therapist
- Dress-making or alterations
- Mail-order business
- Caterer
- Home office of a lawyer or accountant

### People Involved in the Business

- **Resident operated:** You must live on the property to operate a home business.

- **One non-resident:** Only one non-resident employee or volunteer can work on your property.
- **Additional people:** Additional people may be employed by or associated with your home business as long as they do not report to work or pick up/deliver at your property.
- **No gatherings:** Your property cannot be used as a gathering place for non-resident people who work off-site.

## Structural Limitations

- **Enclosed structures:** Business operations must occur in enclosed structures and cannot give the appearance of a business.
- **Accessory structures:** The total floor area of all accessory structures used in connection with your home business cannot cover more than five percent of the total lot area.
- **Business space:** The total floor area of all buildings and accessory structures used in connection with your home business cannot exceed 25 percent of the habitable space of your home.
- **Alterations:** No alterations can be made to the building that would prevent it from being used exclusively as a residence in the future.
- **Off-street parking:** No alterations to your property can be made that would reduce the number of off-street parking spaces required for your residence(s) under SRC Chapter 806.

## Vehicles and Parking

- **Customer parking:** Parking of customer's or client's vehicles cannot create a hazard or excessive congestion.
- **Deliveries and pick-ups:** Delivery and pick-up of materials can only be made by vehicles not exceeding two axles in size.

## Storage

- **Hazardous materials:** On-site storage of hazardous materials not normally incidental to household living, such as toxic, explosive, noxious, combustible, or flammable materials is prohibited.
- **Outside storage or display:** Outside storage or display of materials, equipment, or merchandise used or produced in connection with your home business is prohibited.

## Signage

- **Business Signage:** Signs that are no more than one square foot by one square foot (1x1), that are not illuminated, are permitted without a sign permit. Larger signage, illuminated signage and additional signage may be permitted with a sign permit depending on the zoning of the property.

## Respectful Business Operation

Your home business cannot create a public or private nuisance such as the following:

## Home Occupation Permit Requirements & Application

- **Type A.** A Type A home occupation is one where residents use their home as a place of work; however, no employees or customers/clients come to the site. Examples include artists, crafts people, writers, and consultants. No permit is required.

### **Type A home occupations do not require a home occupation permit**

- **Type B.** A Type B home occupation is one where the residents use their home as a place of work, and either one non-resident employee (business partner, co-owner, or other person affiliated with the business who **does not reside** at the site) works at the site **OR** up to eight customers/clients per day come to the site. A home occupation permit is required.

### **Type B home occupations require a home occupation permit**

#### **To obtain a new or renewal permit:**

- 1) Complete permit application.
- 2) Complete Neighborhood Notice.
- 3) Distribute copies of Neighborhood Notice to property owners as shown on the diagram on the reverse side of application.
- 4) Provide a copy of the Neighborhood Notice to the neighborhood association. For the name and address of your neighborhood association, contact the Office of Community & Civic Life at 503-823-4519 or [www.portland.gov/civic/myneighborhood](http://www.portland.gov/civic/myneighborhood)
- 5) Return completed application, copy of the neighborhood notice, personal check, and copy of current Oregon Drivers License, showing that the home occupation business address is your permanent residence to:

**Portland Permitting & Development**  
Property Compliance  
1900 SW 4<sup>th</sup> Avenue, Suite 5000  
Portland, OR 97201

**A \$194.00 non-refundable application fee is required for a 2-year permit. Please make check payable to 'City of Portland.'**

An inspection will be made prior to the issuance of a permit to ensure that the Type B accessory home occupation regulations are being met.

**Contact Property Compliance at 503-823-2633 if you have any questions.**

## General Regulations – Home Occupations

1. Applicant must be a resident of the site.
2. A Type B home occupation is one where the residents use their home as a place of work, and either one non-resident employee/business associate work at the site or up to eight customers/clients a day visit the site.
3. Retail sales of goods must be entirely accessory to any service provided on the site (such as hair care products sold as an accessory to hair cutting).
4. Any type of repair or assembly of vehicles or equipment with internal combustion engine or of large appliances or any other work related to automobiles and their parts is **prohibited**.
5. A home occupation may not serve as headquarters or dispatch centers where employees come to the site and are dispatched to other locations.
6. All activities must be in completely enclosed structures; exterior storage or display of goods, equipment, or materials is prohibited.
7. The dwelling and site must remain residential in appearance and characteristics. Internal or external changes which will make the dwelling appear less residential in nature of function are prohibited.
8. Hazardous substances are prohibited, except at the consumer commodity level.
9. The maximum noise level for a home occupation is 50 dBA as measured at the property line. For inquiries on noise regulations, please call Noise Control at (503) 823-7350.
10. No more than one vehicle may be used in association with the home occupation. The maximum size of the vehicle used in association with the home occupation is a pickup truck in the medium truck category. It is unlawful for the operator of any accessory home occupation to park or store more than one vehicle used in association with the home occupation in the public right-of-way at any time.
11. Deliveries or pick-ups of supplies or products are allowed at the home only between 8:00 a.m. and 5:00 p.m. Deliveries or pick-ups may not be made by heavy trucks.
12. Customers may visit the site only during the hours of 7:00 a.m. to 9:00 p.m.
13. More than one Type B home occupation per dwelling unit is prohibited.
14. A Type B accessory home occupation is prohibited in a residence with an accessory dwelling unit.
15. **Signs** associated with accessory home occupations are regulated by the Sign Code, Title 32 of the Portland City Code. Please contact Portland Permitting & Development at (503) 823-7996 for information on sign regulations.

Refer to Portland City Codes Chapter 33.203 for further information on accessory home occupation regulations.



### Neighborhood Notice of Type B Home Occupation

Dear Neighbor,

The City of Portland Planning and Zoning Code allows me to conduct an accessory home occupation from my residence. My business will be a Type B home occupation; I may have **either** one non-resident employee **or** up to eight customers/clients per day come to my site. Section 33.203.060 of the City Code requires that I provide you this notice informing you of my home occupation.

General code regulations governing home occupations are listed on the reverse side. You may contact Property Compliance with questions or concerns at 503-823-2633.

Name of Applicant (print): \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_ Type of Business: \_\_\_\_\_

Check One:

- one non-resident employee
- up to eight customers/clients per day

Business Hours of Operation: \_\_\_\_\_

Please contact me at the following phone number \_\_\_\_\_ if you have questions regarding my business.

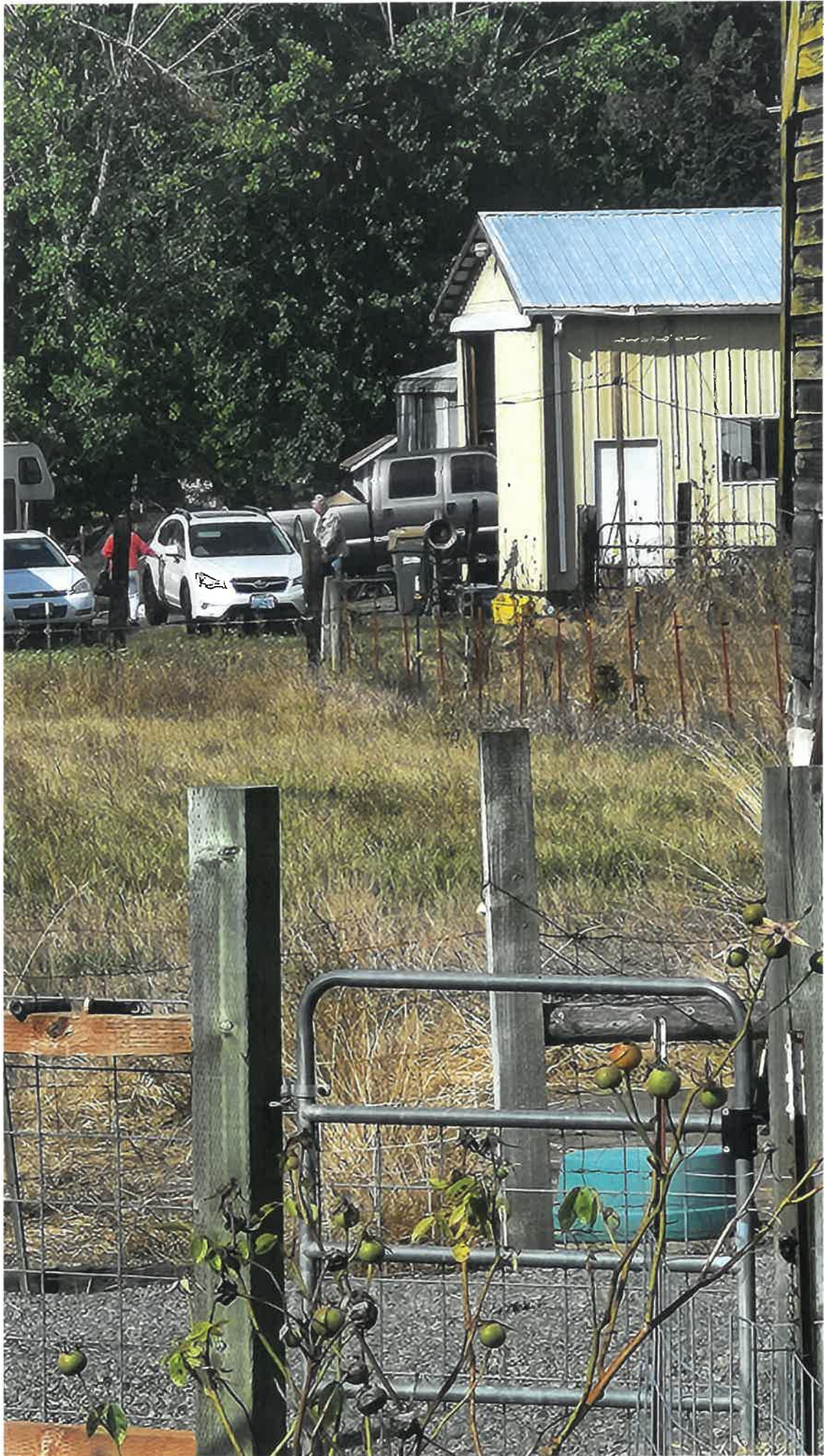
I have met the requirements of the Code and have provided this Notice to my neighbors and neighborhood association.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**The general regulations (page 5 of the home occupation application packet) must accompany the neighborhood notification sent to the surrounding property owners.**

**Applicant: Return a completed copy of this form with your home occupation permit application.**

















City of Brownsville

S Scott McDowell

PO Box 188

Brownsville, Or 97327

August 27, 2024

I am making a complaint about the automotive repair shop being run by Joe Ayala at 1013 Kirk Ave in Brownsville. I am requesting that the city demand the business to cease and desist all operations until all state and county codes are met. At the public hearing before the planning commission last night it was made apparent that Mr. Ayala does not have the required fire mandates, the procedures or equipment necessary for the safe containment of toxic liquids. He does not have the license required to run an auto shop, nor does he have proof of insurance or a building inspection to make sure it is a safe operation. Mr Ayala has been running an auto shop in Brownsville for years with no regulation, he must know that he needs a license to apply as an auto shop. The building housing this operation has no permits and Linn County has no record of it being built, much less inspected. This auto shop was put in without approval and continues to run with the permission of the City of Brownsville. By giving permission for an illegal unlicensed auto shop to continue operations, the City of Brownsville is assuming liability for any damages that may occur.

Sincerely ,

Michael Rodolf

*Michael T Rodolf*

*EMPLOYEES  
SELF*



October 21<sup>st</sup>, 2024

Dan & Wanda Crannell  
35520 Kirk Avenue  
Brownsville, OR 97327

RE: Notice of Decision  
City of Brownsville Land Use File  
*Proposal: Conditional Use request to operate an auto repair shop in the Low Density Residential Zone (LDR).*

Dear Mr. & Mrs. Crannell,

On October 14<sup>th</sup>, 2024, the Brownsville Planning Commission approved a Conditional Use Permit Request to operate an auto repair shop on the premises of 1013 Kirk Avenue, located in the Low-Density Residential Zone. You have received this Notice of Decision as a proponent or opponent in the hearing process.

### **Summary of Planning Commission Decisions:**

The Planning Commission finds the proposal complies with the application requirements and the applicable decision criteria in the Brownsville Municipal Code. The Planning Commission has approved the findings and conclusions included in the staff report dated August 15<sup>th</sup>, 2024, and based on information provided in the Hearing Continuance on October 14<sup>th</sup>, 2024, subject to compliance with the conditions of approval listed below.

### **Conditions of Approval:**

1. The Applicant shall comply with all requirements of applicable laws, ordinances and development regulations, Uniform Building Code requirements & applicable State regulations.
2. The Property owner shall comply with the provisions of the sign code, if used.
3. The Conditional Use is not transferable and does not run with the property.
4. Hours of operation shall be limited to 8:00am – 5:00pm, Monday through Friday.
5. No more than four customer vehicles can be visible from the driveway abutting Kirk Avenue.
6. Authorization of the auto repair business does not include auto body painting.
7. Parking along the drainage ditch in front of 1013 Kirk Avenue is prohibited to vehicles associated with the Conditional Use Permit.
8. The applicant may not expand or otherwise operate beyond the proposed level without applying for a new conditional use permit.



## Right of Appeal:

Any person aggrieved by this decision may file an appeal with the Brownsville City Council in accordance with the appeal deadlines and filing requirements listed in Section 15.75.020 and Chapter 15.75 of the Brownsville Municipal Code. Any appeal of this decision must be filed within fifteen (15) days of this written Notice of Decision and no later than 5:00 p.m. on November 5<sup>th</sup>, 2024.

## Effective Date of Planning Commission Decisions:

If no appeal is filed with the City of Brownsville, this decision will be final on November 5<sup>th</sup>, 2024, @ 5:01 p.m. If an appeal is filed, then the decision is not final until the City Council considers the appeal and makes its decision.

## Time Limit on a Conditional Use Permit

Authorization of a conditional use shall be void after two years or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year on request. [Ord. 504 § 7.040, 1980; 1981 Compilation § 8-5:7.040.]

If you have any questions regarding the Planning Commission's decision, or to obtain an Appeal Application, you may contact Elizabeth Coleman at Brownsville City Hall at (541) 466-5880, Monday through Thursday, 8:30am – 4:30pm.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth E. Coleman".

Elizabeth Coleman  
City of Brownsville, Planning



October 21<sup>st</sup>, 2024

Mike & Sharon Rodolf  
1119 Kirk Avenue  
Brownsville, OR 97327

**RE: Notice of Decision**

City of Brownsville Land Use File

*Proposal:* Conditional Use request to operate an auto repair shop in the Low Density Residential Zone (LDR).

Dear Mr. & Mrs. Rodolf,

On October 14<sup>th</sup>, 2024, the Brownsville Planning Commission approved a Conditional Use Permit Request to operate an auto repair shop on the premises of 1013 Kirk Avenue, located in the Low-Density Residential Zone. You have received this Notice of Decision as a proponent or opponent in the hearing process.

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Sincerely,

A handwritten signature in blue ink that reads "Elizabeth E. Coleman".

Elizabeth Coleman  
City of Brownsville, Planning



October 21<sup>st</sup>, 2024

**Larry & Linda Williams**  
1013 Kirk Avenue  
Brownsville, OR 97327

**Joe Ayala**  
PO Box 786  
Brownsville, OR 97327

**RE: Notice of Decision**

City of Brownsville Land Use File

*Proposal:* Conditional Use request to operate an auto repair shop in the Low Density Residential Zone (LDR).

Dear Mr. & Mrs. Williams & Mr. Ayala,

On October 14<sup>th</sup>, 2024, the Brownsville Planning Commission approved your Conditional Use Permit Request to operate a operate an auto repair shop on the premises of 1013 Kirk Avenue, located in the Low-Density Residential Zone.

**Summary of Planning Commission Decisions:**

The Planning Commission finds the proposal complies with the application requirements and the applicable decision criteria in the Brownsville Municipal Code. The Planning Commission has approved the findings and conclusions included in the staff report dated August 15<sup>th</sup>, 2024, and based on information provided in the Hearing Continuance on October 14<sup>th</sup>, 2024, subject to your compliance with the conditions of approval listed below.

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If you have any questions regarding the Planning Commission's decision, you may contact Elizabeth Coleman at Brownsville City Hall at (541) 466-5880. Mrs. Coleman will continue to be the point of contact for your project.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth E. Coleman".

Elizabeth Coleman  
City of Brownsville, Planning



RECEIVED  
City of Brownsville  
NOV 5 2024

Page 55 of 55  
City of Brownsville  
255 N Main Street, P.O. Box 188  
Brownsville, OR 97327  
P: 541.466.5666 F: 541.466.5118

Clerk EJC

**Appeal for Appeal to City Council**

Fee: 3/4 of Original Fee 187.50 Receipt # 974486

Date of Appeal: 11-5-24

An application for an appeal of any planning action must be filed by 5:00p.m. on the final day of the appeal period at City Hall, 255 N. Main Street, Brownsville, Oregon.

**APPLICANT INFORMATION**

Name Michael Rodolf

Mailing Address 1119 Kirk Ave, Brownsville, Or. 97327

Street Address same as above Phone 541.914.6705

ACTION BEING APPEALED: Conditional use permit for Auto-shop at 1013 Kirk Ave Brownsville

**SPECIFIC GROUNDS AND CRITERIA FOR APPEAL:**

Does not meet with local & state mandates for an auto shop. It must be inspected by a structural & an electrical inspector as stated in #1 conditions of approval. All auto shops must be wired by a licensed electrical contractor and must have a permit.

**STATEMENT AS TO HOW YOU ARE AFFECTED BY THIS DECISION:**

Junked cars are an eyesore, there is extra traffic on our road, Test drives occur up & down the road, brings extra noise and traffic. Customers looking for auto shop have come onto our property.

**APPLICANT SIGNATURE(S)**

Name: Michael Rodolf Date: 11-5-24

Name: Sharon Rodolf Date: 11-5-24