

TOQUERVILLE CITY
ORDINANCE 2010.XX



AN ORDINANCE AMENDING TITLE 10, CHAPTER 2 - HOME OCCUPATION DEFINITION; CHAPTER 23 - HOME OCCUPATIONS TO INCLUDE: TITLE AND PURPOSE, DEFINITION OF A HOME OCCUPATION AND HOME OCCUPATION PERMIT, PERMIT AND LICENSE REQUIREMENT, APPLICATION FOR PERMIT, APPROVAL PROCESS, CONDITIONS REQUIRED PRIOR TO ISSUANCE OF PERMIT, NOTICE TO NEARBY PROPERTY OWNERS, RENEWAL OF PERMIT, REVOCATION OR DENIAL OF PERMIT; TITLE 10, CHAPTER 20-CONDITIONAL USES, SECTION 3E: REVIEW PROCESS, REMOVAL OF ARTICLE E-EXCEPTION; TO ADD HOME OCCUPATIONS WITH A CURRENT HOME OCCUPATION PERMIT AS A PERMITTED USE AND REMOVE HOME OCCUPATIONS FROM CONDITIONAL USE IN TITLE 10, CHAPTER 9A-AGRICULTURE DISTRICTS, SECTION 2-PERMITTED USES AND SECTION 3-CONDITIONAL USES; TITLE 10, CHAPTER 10A-SINGLE-FAMILY RESIDENTIAL DISTRICT, SECTION 2-PERMITTED USES AND ARTICLE 3-CONDITIONAL USES; TITLE 10, CHAPTER 10B-RM MULTIPLE-FAMILY DISTRICT, SECTION 2-PERMITTED USES AND SECTION 3-CONDITIONAL USES; TITLE 10, CHAPTER 11A-MULTIPLE USE ZONE, SECTION 2-PERMITTED USES AND SECTION 3-CONDITIONAL USES.

RECITALS

WHEREAS, Toquerville City (“City”) is an incorporated municipality duly organized under the laws of the State of Utah; and

WHEREAS, the city does not currently have significant commercial activity, but a small number of home occupations; and

WHEREAS, pursuant to the Toquerville General Plan one of the City’s economic goals is to promote creative development activities that complement and are compatible with the city’s existing residential neighborhood; and

WHEREAS in accordance with the General Plan, one of the economic objectives is to encourage home occupations that use technology and foster entrepreneurship; and

WHEREAS, one of the strategies to acquire the objective is to streamline permitting requirements for home occupation permits; and

WHEREAS, the city prefers to separate home occupations from conditional uses because home occupation permits should not run concomitant with the land; and

WHEREAS, City Development Staff, as an administrative function will issue and manage all future home occupations permits; and

WHEREAS, the City seeks to modify home occupation permits from conditional uses to permitted uses in the A1, R1, RM, and MU-20 zones.

ORDINANCE

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of Toquerville City, State of Utah, as follows:

10-2-1: GENERAL DEFINITIONS:

HOME OCCUPATION: ~~An accessory use of a residential dwelling unit. Such use requires a home occupation permit as provided in chapter 23 of this title.~~ The conducting of any business, transaction or activity for which consideration of any nature is received within any permitted zoning district. Garage or yard type sales do not constitute a home occupation provided they are held no more than four (4) times per calendar year and last no more than three (3) consecutive days on each occasion.

10-23-1: TITLE AND PURPOSE:

This chapter shall be known and cited as the *TOQUERVILLE HOME OCCUPATION ORDINANCE*. The purpose and intent of this chapter is to allow persons, in compliance with the requirements of this chapter ~~and who are issued a conditional use permit,~~ to utilize a portion of their residential premises as a place of business. Such business shall only be operated by residents in the home and shall not be of such nature or scope that the operation of the business disrupts neighbors or detracts, changes or modifies the character of the neighborhood in which it is located.

10-23-3: DEFINITIONS:

All other definitions set forth in this title not specifically modified by this section are incorporated herein by this reference.

The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

HOME OCCUPATION: The conducting of any business, transaction or activity for which consideration of any nature is received within any permitted zoning district. Garage or yard type sales do not constitute a home occupation provided they are held no more than four (4) times per calendar year and last no more than three (3) consecutive days on each occasion.

HOME OCCUPATION PERMIT: The permit issued by the Toquerville City Development Staff for the purposed of granting permission to conduct a HOME OCCUPATION. ~~planning commission following the same procedures provided for in section 10-20-3 of this title.~~

IN HOME OFFICE: The use of a portion of the residential premises for office use only, including, but not limited to, record storage, filing, invoicing, accounting, billing, order taking, making appointments and telephone contacts.

RESIDENCE: The building or structure on the residential premises that is the home or dwelling unit that has been designed for use as the living and sleeping place for its occupants, as distinguished from a detached garage or other accessory building.

RESIDENTIAL PREMISES: The parcel of land and structures on it that is located in the areas of the city which are, or may be, zoned to permit home occupations. Residential premises does not include parcels of land located in any commercial zoning district.

10-23-4: PERMIT AND LICENSES REQUIRED:

- A. Home Occupation Permit: To assure compliance with the provisions of this title and to better protect the character of affected neighborhoods in the City, a home occupation permit must be approved by **City Development Staff** ~~the Planning Commission~~ before a structure on the residential premises may be used for a home occupation. ~~Applications for the conditional use permit must be obtained from the City office. The procedure and criteria for obtaining a home occupation permit shall be the same as that of a conditional use permit set forth in section 10-20-3 of this title. In addition to meeting the requirements of section 10-20-3 of this title, an applicant must also show that they meet the conditions set forth in section 10-23-8 of this chapter. (Ord. 2012.04, 1-18-2012)~~
- B. Business License: In addition to obtaining a home occupation permit, any person wishing to conduct a home occupation upon residential premises must also obtain and maintain a valid business license from the City, provided however that the City shall not charge any license fee for the business license.
- C. State Sales Tax License: If required by the State, a State Sales Tax license shall be issued to the home occupation, with the City listed as a business location.

10-23-5: APPLICATION FOR PERMIT:

All applications for a home occupation permit shall contain the following:

- A. The name, **contact information, social security number, date of birth** and home address of the person applying for the permit;
- B. The registered name of the business, if applicable;
- C. The Federal tax identification (EIN) number of the business entity, if applicable;
- D. A brief description of the type of business/home occupation to be engaged in;
- E. A State tax identification number, if applicable;
- F. A licensure number issued by the State Department of Professional and Occupational Licensing, if applicable;
- G. Proof that the home occupation is State licensed or exempt, if applicable;
- H. A diagram or floor plan of the residence and/or ancillary structure (drawn to rough scale) showing the location and size of the area of the residence/structure being proposed to be used for a home occupation;

I. Signature of the applicant (or applicant's authorized agent) acknowledging under penalty of law that the information provided by the applicant (or applicant's authorized agent) is true.

10-23-6: FEES:

The City shall not impose any license fee in connection with the operation of a home occupation. However, the City shall charge a one-time application fee as shown on its fee schedule to cover the costs to process and review the application for a home occupation. In addition, any fees incurred by the City for professional services associated with the review of a home occupation application, including fees for the City Planner and the City Engineer, shall also be assessed to the applicant and paid in full as a prerequisite to the issuance of any home occupation permit.

10-23-7: APPROVAL PROCESS:

The ~~Planning Commission~~ City Development Staff may, upon application, and ~~upon review in a public meeting where notice to nearby property owners have been given pursuant to section 10-23-9 of this chapter,~~ may issue a home occupation permit, which shall state the home occupation allowed, the conditions attached thereto, if any, and any time limitations imposed thereon. The home occupation permit shall not be issued unless the ~~Planning Commission~~ City Development Staff is satisfied that the applicant has or will meet all of the conditions set forth in section 10-23-8. ~~10-20-3 of this title and those listed in section 10-23-8 of this chapter, and that the applicant has agreed in writing to comply with all said conditions. (Ord. 2012.04, 1-18-2012)~~

10-23-8: CONDITIONS REQUIRED PRIOR TO ISSUANCE OF PERMIT:

~~In addition to the requirements set forth in section 10-20-3 of this title, each and every one of~~ The following conditions shall be met or agreed to be adhered to prior to the issuance of a home occupation permit:

- A. The home occupation shall not alter the residential character of the residential premises by reason of activity, color, design, materials, storage, construction, lighting, sounds, noises, vibrations, dust, odors, noxious fumes, etc., nor shall it unreasonably disturb the peace and quiet of an individual and/or the residential neighborhood, nor interfere with area radio or television reception.
- B. No persons other than residents of the residential premises shall be employed in the home occupation. No independent contractors shall come upon the residential premises to conduct the work of the home occupation.
- C. Outside storage of equipment and/or materials associated with the home occupation business shall not be permitted.
- D. Only two (2) vehicles may be used in association with the home occupation and they shall be capable of being parked in the garage (or regularly parked areas normally used by the resident). ~~Any vehicles used for the home occupation shall be limited to a maximum size of one ton gross vehicle weight.~~ The vehicle used for the home occupation shall be limited to a maximum gross vehicle weight rating of twelve thousand (12,000) pounds or six (6) tons.
- E. The number of square feet used for conducting the home occupation, whether in the residence or other permitted structure, shall not exceed twenty five percent (25%) of the total area of the residence, plus attached garage, not to exceed five hundred (500) square feet.

F. The home occupation may be conducted in a garage or other structures on the premises, subject to the following:

1. The garage may not be altered in any way that prevents the parking of vehicles within.
2. Sufficient off street parking must be available for the vehicles displaced by using the garage to conduct the home occupation.

G. No business signs are to be displayed on the residential premises in connection with the home occupation.

H. The home occupation shall not create noise in excess of that which is customary to the immediate neighborhood.

I. The home occupation shall not generate pedestrian or vehicular traffic in excess of that customarily associated the zoning in which the use is located.

J. The proposed home occupation will not place the residence or permitted structure out of conformity with any applicable Fire, Building, Plumbing, Electrical and Health Codes, as well as with any Federal and State regulations and other ordinances of the City. The residential premises shall be subject to inspection by the City for compliance purposes.

K. The proposed home occupation will not cause a demand for Municipal or utility services, or community facilities, in excess of those usually and customarily provided for similar residential premises in the affected zoning area.

L. Promotional meetings for the purpose of selling merchandise, taking orders or training shall not be held more than once in any calendar month.

M. No sales of goods or materials requiring regular or frequent delivery to a customer by a semitractor/trailer truck are permitted.

N. No hours of operation between ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. are permitted.

O. No storage, usage or disposal of hazardous or flammable materials.

P. All trash or refuse created by the home occupation is to be disposed of regularly and the storage of all trash/refuse will be kept in appropriate containers out of the sight of the public from in the front of the residence.

Q. The applicant shall maintain a valid business license issued by the City, or in the case of satellite operation, in the City where the main center of operations for the home occupation is located.

The ~~Planning Commission~~ City Development Staff may condition the approval of any home occupation permit with conditions reasonably calculated to mitigate or maintain any of the above mentioned conditions.

NOTICE TO NEARBY PROPERTY OWNERS:

Applicants shall provide notice to all property owners within three hundred feet (300') from each of the exterior boundaries of a residential premises whereby a home occupation permit is being sought. Said notice shall provide a description of the proposed home occupation and the date, time and place of the public meeting whereby the issuance of a home occupation permit will be considered. Said notice shall be accomplished by the applicant providing envelopes bearing first class postage that are addressed to all property owners, as shown on the County tax rolls as of the date of the application, within three hundred feet (300') from each of the exterior boundaries of the subject residential premises. The City staff shall mail all said notices. The intent of the notice is to inform neighbors of the proposed activity within their neighborhood, and should not be construed as a legal notice. Nearby property owners are welcome to attend the public meeting ~~submit written comments or provide feedback regarding the permit to the City within 10 days of the US Postal Service post mark date notification.~~ where the approval of the home occupation permit. ~~City Development Staff will grant the permit as submitted, issued with conditions, or deny the permit.~~ will be considered however, the Chairperson of the Planning Commission shall be vested with the discretion of whether to conduct a public hearing and allow public comment to be received and considered.

10-23-10: RENEWAL OF PERMIT:

All home occupation permits shall be valid for a period of one year or until the January 1 following issuance of the permit. All permits will automatically renew unless there have been reported violations, or detrimental characteristics, which may, in the opinion of the ~~Planning Commission, City Development Staff~~ require revocation or nonrenewal of the home occupation ~~conditional use~~ permit.

10-23-11: REVOCATION OR DENIAL OF PERMIT:

A. Any home occupation permit issued pursuant to the provisions of this chapter may be revoked and any application denied by ~~the Planning Commission~~ ~~City Development Staff~~ because of:

1. The failure of the applicant to comply with the conditions and requirements of this chapter or any ordinance of the City.
2. Unlawful activities conducted ~~or permitted~~ on the residential premises where the home occupation is conducted.
3. The home occupation permit was obtained by fraud or deceit.
4. The home occupation has been abandoned for a period of one hundred twenty (120) days or longer.

5. If at any time the home occupation exceeds the required conditions of the original permit, the city may revoke the permit.

B. The City shall notify the applicant of the denial or revocation of the home occupation permit and the reason for such denial or revocation.

10-23-12: APPEAL:

A home occupation permit denial, revocation or nonrenewal may be appealed to the City Council by filing written notice of appeal with the City Recorder within ten (10) days of an applicant's receipt of the written notice of denial, revocation or nonrenewal. The City Council shall hear the appeal within sixty (60) days of the notice of appeal being filed.

10-23-13: ENFORCEMENT:

Any person conducting a home occupation without a valid home occupation permit shall be subject to the enforcement and penalty provisions of [chapter 5](#) of this title. In addition to the criminal sanctions set forth in [chapter 5](#) of this title, the City, at its discretion, may institute actions and proceedings, whether legal or equitable, to enjoin, restrain or abate any violations of this chapter.

CHAPTER 20 CONDITIONAL USES

10-20-3: REVIEW PROCESS:

- A. Application: An application for approval of a conditional use shall be filed with the planning department on a form provided by the city, and must include written consent by the owner of all property to be included in the conditional use. Other information required to be submitted on or with the conditional use application can be found in [chapter 6](#) of this title.
- B. Staff Review: Upon receipt of a completed conditional use application, the city planner and city staff shall conduct a review of the application. The city planner shall prepare and deliver to the planning commission a written advisory report with a recommendation, including any recommended conditions on the application.
- C. Planning Commission Review:
1. Within a reasonable time of receipt of a complete application, the planning commission shall give public notice consistent with section [10-1-8](#) of this title, and hold a public hearing on the conditional use application. Members of the public may submit written comments to be part of the public hearing record or may present oral comments at the hearing.
 2. With receipt of input from appropriate city departments or officials, and input from any public hearing, the planning commission shall review the project and make a preliminary determination regarding the conditional use application and any conditions of approval. The planning commission will forward to the city council a recommendation to grant, to grant with conditions or to deny the conditional use application.
- D. City Council Action: After receiving the planning commission recommendation regarding a conditional use application, the city council will consider the conditional use application and the recommendations of the planning commission at its next regularly scheduled meeting. The city council may grant, grant with conditions or deny any application for a conditional use permit.
- ~~E. Exception: The review process set forth in this section shall not apply to applications for home occupation permits, which shall be reviewed by the planning commission pursuant to chapter 23 of this title. Notwithstanding the foregoing, a home occupation permit will not be issued unless the planning commission is satisfied that the applicant for the home occupation permit has or will~~

meet all of the conditions set forth in this chapter and chapter 23 of this title. (Ord. 2012.04, 1-18-2012)

Chapter 9 - Agricultural Districts:

10-9A-2: PERMITTED USES:

Agricultural buildings and uses as necessarily ancillary and related to agricultural operations.
Crop production.

Family food production.

Home Occupations (with current Home Occupation Permit)

Household pets, as limited by [title 5, chapter 1](#), "Animal Control", of this Code.

Livestock, as permitted under section [5-1-4](#) of this Code.

One single-family dwelling.

10-9A-3: CONDITIONAL USES:

Cemeteries.

Commercial kennels.

Commercial livestock operations.

Commercial roadside stands for sale of produce grown and sold on premises.

Home occupations.

Public utilities.

Residential facility for elderly persons.

Residential facility for persons with a disability¹. This use shall require a permit under section [10-17-2](#) of this title.

Riding stables.

Vertical storage silos.

Other uses, similar to the above and judged to be in harmony with the character and intent of the zone.

Chapter 10-Residential Districts

Article A. R-1 Single Family Residential Zone

10-10A-2: PERMITTED USES:

Accessory buildings and uses customarily and incidental to the permitted and conditional uses allowed herein.

Home Occupations (with current Home Occupation Permit)

Household pets, as defined and allowed under [title 5, chapter 1](#), "Animal Control", of this Code.

Rentals of single-family residences in excess of ninety (90) consecutive days.

Single-unit dwellings and other uses customarily incidental and accessory to single-family residential uses and necessary for the operation thereof (garages or carports, play equipment, etc.).

Tilling of the soil, raising crops, horticulture and gardening.

10-10A-3: CONDITIONAL USES:

Cemeteries.

Child daycare or nursery.

Churches.

Home occupations.

Model homes.

Private recreation grounds and facilities not open to the general public and to which no admission charge is made.

Public and quasi-public buildings.

Public or private schools.

Public parks, recreation fields or public swimming pool.

Public utility uses.

Residential facility for persons with a disability¹. This use shall require a permit under section [10-17-2](#) of this title.

Single-family and multi-family dwellings located above commercial space.

The keeping of livestock in accordance with section [5-1-4](#) of this Code.

Other uses similar to the permitted uses above and judged by the Planning Commission to be in harmony with the character and intent of this zone.

Article B. RM Multiple-Family District

10-10B-2: PERMITTED USES:

Assisted living facility.

Building, accessory.

Dwelling, multiple-family.

Family child daycare.

Golf course.

Home Occupations (with current Home Occupation Permit)

Minor utility.

Park.

Tilling of the soil, raising crops, horticulture and gardening for family food production.

10-10B-3: CONDITIONAL USES:

Agricultural.

Cemetery.

Church or place of worship.

Club or service organization.

Dwelling, single-family.

~~Home occupations.~~

Manufactured home.

Personal care service.

Personal instruction service.

Protective service.

Residential facility for elderly persons.

Residential facility for persons with a disability¹. This use shall require a permit under section [10-17-2](#) of this title.

Utility substation.

MU-20 Multiple Use District

10-11A-2: PERMITTED USES:

Accessory buildings and uses customarily incidental to agricultural and grazing uses.

Agricultural uses.

Home Occupations (with current Home Occupation Permit)

Livestock grazing.
Single-family dwellings.

10-11A-3: CONDITIONAL USES:

Agricultural industry and related business uses.

Commercial kennels.

Extraction industry uses as outlined under [chapter 15, article D](#), "EI Extraction Industries Overlay Zone", of this title.

Home occupations.

Private park or recreational grounds or facilities, or private camp or resort, including accessory or supporting buildings or dwelling complexes which are owned or managed by the recreational facility and under unified control.

Public or quasi-public building for essential public services.

Radio, television, microwave or cellular phone transmitting and relay stations and towers.

Residential facility for persons with a disability¹. This use shall require a permit under section [10-17-](#) of this title.

Single-family and multi-family dwellings located above commercial space.

Accessory buildings and uses customarily incidental to the above.

2. REPEALER. This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same.

3. SAVINGS CLAUSE: If any provision or clause in this Ordinance or the application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof, and to this end the provisions and clauses of this Ordinance are declared to be severable.

4. EFFECTIVE DATE. This Ordinance shall take effect immediately upon approved by the City Council.

PASSED AND APPROVED THIS ____ DAY OF JUNE 2019.

Paul Heideman	Aye ____	Nay ____	Abstain/Absent ____
Keen Ellsworth	Aye ____	Nay ____	Abstain/Absent ____
Justin Sip	Aye ____	Nay ____	Abstain/Absent ____
Alex Chamberlain	Aye ____	Nay ____	Abstain/Absent ____
Ty Bringhurst	Aye ____	Nay ____	Abstain/Absent ____

CITY OF TOQUERVILLE
a Utah Municipal Corporation

Lynn Chamberlain, Mayor

Date _____

Attest: Dana McKim, City Recorder

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