

**TAYLORSVILLE CITY COUNCIL
AGENDA ITEM SUMMARY**

MEETING DATE: February 19, 2014

AGENDA ITEM: Public Hearing - Ordinance #14-02 for a proposed amendment to Sections 13-11-04, 13-36-05, and 13-36-09 of the Taylorsville Land Development Code regarding the number of children allowed in a home daycare

PRESENTER: MARK MCGRATH

AUTHOR: MICHAEL MELDRUM

ISSUE SUMMARY:

This is an application by JoAnna Turner to increase the number of children currently allowed in home daycare businesses. The current maximum number of children in a home daycare is 12. The applicant is requesting to increase that number to 16.

On August 20, 2013, the Planning Commission forwarded a negative recommendation to the City Council to adopt an ordinance that would allow up to 16 children in a home daycare (home occupation business license required). The City Council considered the item and remanded it to the Planning Commission for further consideration. The Planning Commission subsequently had discussions on November 12, 2013 and January 14, 2014 regarding the proposed amendment.

The Planning Commission directed staff to prepare some alternatives and other considerations. They are as follows:

- Step-up/ramp-up method
- Require a scaled floor plan drawing to demonstrate compliance with the minimum indoor square foot per child requirement
- Allow up to 16 with no additional requirements
- Leave the limit at 12
- Flex space for an additional 4 children before school and after school

A step-up or ramp-up method is one wherein a provider ultimately seeking to have 16 children at one time in a home daycare must first obtain a Home Occupation Business License and Conditional Use Permit for 12 children. This permit must be in place for a minimum of 1 year with no substantiated and unresolved complaints or negative impacts on the neighborhood. At the conclusion of the mandatory 1 year period the provider may make application to have 16 children in the home daycare.

Already existing in ordinance are provisions for the number of square feet required per child both inside and outside. The current requirements are 80 square feet per child outside and 35 square feet per child inside. The outside play area must be fenced. Kitchens, bathrooms, hallways, and similar spaces do not count toward the minimum interior square footage requirement. The State requirements for indoor and outdoor areas are 35 and 40 square feet, respectively.

Ordinances #14-02

Text Amendment for Number of Children in Home Daycare

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Staff proposes to also add a requirement for home occupation daycare providers to supply a scaled building floor plan of the home with the play and/or instruction areas marked to demonstrate compliance with the interior square foot per child requirement. This requirement would be for Class D2 home occupation daycares and greater. The Planning Commission and staff concur that regardless if the number of children is increased adding the requirement for home daycare providers to submit a scaled floor plan drawing of the home must be submitted to determine compliance with the amount of square footage required per child in the home daycare.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission unanimously (6-0 vote) recommends that the ordinance governing the maximum number of children allowed in a home daycare remain as it is currently with the exception that an applicant for a home daycare or home preschool must submit a scaled floor plan drawing of the home to verify compliance with the square footage required per child.

TAYLORSVILLE, UTAH
ORDINANCE NO. 14-02

AN ORDINANCE OF THE CITY OF TAYLORSVILLE TO AMEND THE TEXT OF SECTIONS 13-11-04, 13-36-05, AND 13-36-09 OF THE TAYLORSVILLE LAND DEVELOPMENT CODE REGARDING THE NUMBER OF CHILDREN ALLOWED IN A HOME DAYCARE

The City Council of Taylorsville ordains as follows:

WHEREAS, on August 20, 2013, November 12, 2013, and January 14, 2014 the Taylorsville Planning Commission properly noticed and held public hearings and voted 6-0 to forward a negative recommendation to amend the text of Sections 13-11-04, 13-36-05, 13-36-09 of the Taylorsville Land Development Code ; and

WHEREAS, on February 13, 2014 a notice of public hearing regarding the proposed Zoning map amendment was posted on the state public notice website; and

WHEREAS, on August 5, 2013, October 28, 2013, and December 20, 2013 a notice of public hearing regarding the proposed text amendment was posted in 3 different places within the City of Taylorsville boundaries; and

WHEREAS, the Taylorsville City Council met in a regular session on February 19, 2014 to conduct and consider, among other things, a public hearing regarding the proposed text amendment; and

WHEREAS, after careful consideration and review, the City Council has determined that it is in the best interest, health, safety, and welfare of the citizens of Taylorsville to amend Section 13-11-04 of the Taylorsville Land Use Development Code.

NOW, THEREFORE, BE IT ORDAINED by the Taylorsville, Utah City Council that this document be adopted to amend the text of Section 13-11-04 of the Taylorsville Land Development Code.

13.11.040: HOME OCCUPATIONS:

A. Purpose: This section is established to:

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

B. Administrative Conditional Use Permit And Home Occupation License: Home occupations are allowed only with approval of an administrative conditional use permit and a home occupation business license from the city.

C. Categories And Requirements Of Home Occupation Licenses: Home occupation businesses are licensable as class A, class B, class C, class D, and family childcare/home preschool class D.

D. General Requirements: The following requirements must be met in order to have a home occupation:

1. Obtain a home occupation administrative conditional use permit and business license from the city.
2. Remain compliant with all applicable statutes, rules and regulations.
3. Activity shall be clearly incidental to the dwelling or residential use.
4. Storage of stock in trade, inventory or commodities shall not occupy more than five hundred (500) cubic feet of the area being used for the home occupation and shall not be visible outside the dwelling unit.

5. Signage shall be limited to one nonilluminated nameplate sign that does not exceed three (3) square feet in area, and vehicles or equipment may not be used for the primary purpose of advertising the home occupation at the site of the home occupation.
6. Employees shall be limited to bona fide resident(s) of the dwelling unit, except that an employee living outside the residence may work in the residence in a home occupation class D - family childcare/home preschool when required by state law.
7. Activities associated with the home occupation shall not produce traffic, light, glare, noise, fumes, odor or vibration that will diminish the residential character of the neighborhood.
8. Owners of the property or property manager where the home occupation is to be located must give written consent to the home occupation.
9. Home occupations are subject to review upon complaint. If a complaint is received by the city, the home occupation will be reviewed for compliance with applicable ordinances and conditions of approval.
10. Dwelling units and landscape areas shall be well maintained.
11. Alterations shall not be made to the dwelling or the yard area that will change its residential character.
12. Property address numbers need to be identified and maintained on the home. Address letters should be a minimum of four inches (4") in height and a contrasting color from the main building.
13. One vehicle only may be associated with the home occupation. Said vehicle must be parked on site in a garage or driveway and may not exceed a ten thousand (10,000) pound gross vehicle weight rating or have no more than two (2) axles.
14. No more than two (2) home occupation businesses shall be allowed per dwelling unit.

E. Additional Requirements For Class A; Conducted Entirely Within A Dwelling Unit In Which No Clients Or Customers Visit The Home: Specific operational requirements for a home occupation class A include the following:

1. No clients, customers, or patrons of the home occupation business are allowed to visit the home occupation location for business purposes.
2. The yard of the dwelling unit and any detached accessory building(s) shall not be used in conjunction with the home occupation activity.

F. Additional Requirements For Class B; Conducted Entirely Within A Dwelling Unit In Which No Clients Visit The Home Occupation But Produces Or Assembles A Product On A Small Scale: Specific operational requirements for a home occupation class B include the following:

1. No clients, customers, or patrons of the home occupation business are allowed to visit the home occupation location for business purposes.

2. The yard of the dwelling unit and any detached accessory building(s) shall not be used in conjunction with the home occupation activity.
3. Delivery of commodities used in connection with the home occupation shall be provided by parcel or letter carrier service only.

G. Additional Requirements For Class C; Conducted Entirely Within A Dwelling Unit In Which Clients Or Customers Visit The Home: Specific operational requirements for a home occupation class C include the following:

1. The yard of the dwelling unit and any detached accessory building(s) shall not be used in conjunction with the home occupation activity.
2. Delivery of commodities used in connection with the home occupation shall be provided by parcel or letter carrier service only.
3. A minimum of two (2) parking spaces comprising at least three hundred sixty (360) square feet of paved hard surface area shall be provided for clients, customers, or patrons of the home occupation business in addition to required residential parking. The director may waive the additional parking space requirement for home occupations located in planned unit developments, manufactured home parks, condominium developments, and apartment complexes. Required parking for a class C home occupation shall be located in the dwelling's front and/or side yard.
4. Required parking for the home occupation shall not detract from the residential character of the property. An appropriate amount of landscaping shall be preserved and maintained.
5. Only one class C home occupation shall be allowed per dwelling unit.
6. Hours of operation for class C home occupations will be determined through the conditional use permit process. Hours exceeding six o'clock (6:00) A.M. to eight o'clock (8:00) P.M. will be considered with documented need or justification.

H. Additional Requirements For Class D; Provides For Care, Supervision, And/Or Home Preschool Instruction Of Children Less Than Fourteen Years Of Age Within An Occupied Dwelling And A Secure Yard: Specific operational requirements for a home occupation class D include the following:

1. Applicants for a class D home occupation shall obtain and remain compliant with all applicable licenses/approvals from all pertinent city, county, state, and federal agencies and comply and remain compliant with all statutes, rules and regulations including obtaining, if applicable, a certificate as a residential childcare provider from the Utah state department of health.
2. Secure outdoor play areas are required for all class D home occupations.
 - a. The outdoor play area shall consist of a minimum of eighty (80) square feet in area per child.
 - b. The play area shall be located in the rear and/or side yard of the dwelling.

- c. The outdoor play area shall be secured by an appropriate, well maintained fence not less than six feet (6') in height. The director may require a fence that exceeds six feet (6') in height as it determines necessary.
 - d. The hours of operation for the outdoor play area shall not exceed eight o'clock (8:00) A.M. to eight o'clock (8:00) P.M.
3. The dwelling unit should provide an indoor play area at a minimum of thirty five (35) square feet in area per child.
 4. A minimum of two (2) parking spaces comprising at least three hundred sixty (360) square feet of paved hard surface area shall be provided for clients, customers or patrons of the class D home occupation business in addition to required residential parking. The director may waive the additional parking space requirement in planned unit developments, manufactured home parks, condominium developments, and apartment complexes. Required parking for the home occupation shall be located in the dwelling's front and/or side yard.
 5. The designated number of children includes the caregiver's own children under the age of six (6) who are not yet in full day school.
 6. Required parking for the home occupation shall not detract from the residential character of the property. An appropriate amount of landscaping shall be preserved and maintained.
 7. Only one class D home occupation shall be allowed per dwelling.
 8. Hours of operation for class D home occupations will be determined through the conditional use permit process. Hours exceeding six o'clock (6:00) A.M. to eight o'clock (8:00) P.M. will be considered with documented need or justification.
 9. Home preschools shall allow no more than twelve (12) children per preschool session. Home preschool sessions shall be limited to no more than four (4) hours and preschool sessions shall be limited to two (2) per weekday. Instructor licensing and curriculum requirements shall comply with the requirements of the state of Utah.
 10. Home daycare and home preschools shall be required to submit a scaled floor plan drawing to demonstrate compliance with the requirements of Section 13-11-04 H. 3.

I. Conditional Use Permit Process: A person seeking a home occupation conditional use permit shall file a written application with the community development department of the city in a form prescribed by the city.

1. Home occupation classes A, B, C, and D1, D2, D3, and D4 conditional use permit may be approved and issued by the director. Any person shall have the right to appeal the decision of the director to the planning commission within ten (10) business days of the director's decision, stating the reason for the appeal and requesting a hearing before the planning commission at the earliest possible regular meeting of the commission.
2. All home occupation conditional use permits granted by the city are subject to review upon complaint. The city may revoke a permit issued for a home occupation upon notice and

hearing for violation of any governing ordinance or law of the city, state or federal government, or for any unresolved and substantiated reason.

3. A home occupation permit granted by the city shall not be assignable or transferable to another person or another location without first being reviewed and approved by the city. (Ord. 12-15, 7-11-2012)

J. Home Occupations Not Allowed: The following uses are not allowed as home occupations:

1. Any use that requires or utilizes chemicals or hazardous materials in excess of volumes allowed by the international fire code in a residential situation.
2. Auto body or fender work.
3. Auto, truck, diesel, boat, trailer, or motorcycle repair or services at the residence.
4. Furniture or cabinet making.
5. Junkyards, storage or recycling yards.
6. Lawn mower, small engine or motor repair or services.
7. Major appliance repair (washers, dryers, refrigerators, etc.).
8. Manufacture or sale of firearms, ammunition, explosives or similar products.
9. Medical clinics and laboratories.
10. Mortuaries or crematoriums.
11. Sexually oriented businesses.
12. Short term rental.
13. Vehicle sales or rental exceeding two (2) sales per year.
14. Vehicle towing operations.
15. Welding or ironworks.
16. Any other use that would produce traffic, light, glare, noise, fumes, odor or vibration that will diminish the residential character of the neighborhood.
17. Reiki type therapy. (Ord. 12-28, 10-17-2012)

K. Exceptions: Notwithstanding anything herein to the contrary, a home occupation conditional use permit is not required for the following activities:

1. Garage and yard sales. Refer to section 13.11.130 of this chapter.

2. Temporary social gathering sales that do not exceed one day, such as Tupperware parties, book parties, candle parties, etc., not to exceed four (4) occurrences per year. (Ord. 12-15, 7-11-2012)

This Ordinance, assigned Ordinance No. 14-02, shall take effect as soon as it shall be published or posted as required by law, deposited, and recorded in the office of the City Recorder, and accepted as required herein.

PASSED AND APPROVED this _____ day of _____, 2014.

TAYLORSVILLE CITY COUNCIL

By: _____
Kristie S. Overson, Chairman

VOTING:

Daniel Armstrong	Yea	___	Nay	___
Dama Barbour	Yea	___	Nay	___
Ernest Burgess	Yea	___	Nay	___
Bradley W. Christopherson	Yea	___	Nay	___
Kristie S. Overson	Yea	___	Nay	___

PRESENTED to Mayor of Taylorsville for his approval this _____ day of _____, 2014.

APPROVED this _____ day of _____, 2014.

By: _____
Lawrence Johnson, Mayor

ATTEST:

Cheryl Peacock Cottle, Recorder

DEPOSITED in the Recorder's office this _____ day of _____, 2014.

POSTED this _____ day of _____, 2014.

City of Taylorsville
Planning Commission Meeting Minutes
January 14, 2014
Pre-Meeting – 6:30 P.M. – Regular Session – 7:00 P.M.

Attendance:

Planning Commission

Anna Barbieri, Chair

Garl Fink

Israel Grossman

Dale Kehl

Ted Jensen

Curt Cochran

Steven Fauschou

Excused: Don Quigley (Alternate)

Community Development Staff

Michael Meldrum – Principal Planner

Jean Gallegos – Admin Asst/Recorder

Excused: Mark McGrath – Director

PUBLIC: 19:02:38

Nick Mingo, J. Andersen, Travis Mallard, Robert Wirthlin, Sharon Boam, Boy Scout Troop 99, Bennion Stake were present and led the Commissioners in the Pledge of Allegiance.

19:04:10

WELCOME: Commissioner Barbieri assumed duties as Chair and opened the meeting at 7:00 p.m.

CONSENT AGENGA

1. **Review/approval of Minutes for December 10, 2013.**

MOTION: Commissioner Fink - I move for approval of the Consent Agenda consisting of the Minutes for December 10, 2013.

SECOND: Commissioner Grossman

VOTE: All Commissioners present voted in favor.

2. **5Z13 – Text Amendment for Child Day Care to Increase the Number of Children Allowed from 12 to 16. (Michael Meldrum/Principal Planner) 19:05:55**

2.1 **Mr. Meldrum** presented this item. On August 20, 2013, the Planning Commission previously forwarded a negative recommendation to the City Council to adopt an ordinance that would allow up to 16 children in a home daycare (home occupation business license required). The City Council considered the item and remanded it to the Planning Commission for further consideration. The Planning Commission must determine if there are circumstances where a home daycare could have up to 16 children at one time. The Planning Commission directed staff to prepare some alternatives. **Mr. Meldrum** presented those alternatives as follows: (1) Step-up/ramp-up method; (2) Require a scaled floor plan drawing to demonstrate compliance with the minimum indoor square foot per child requirement; (3) Allow up to 16 with no additional requirements; (4) Leave the limit at 12; or (5) Flex space for an additional four children before school and after school.

- A step-up or ramp-up method is one wherein a provider ultimately seeking to have 16 children at one time in a home daycare must first obtain a Home Occupation Business License and Conditional Use Permit for 12 children. This permit must be in place for a minimum of one year with no substantiated and unresolved complaints or negative impacts on the neighborhood. At the conclusion of the mandatory one year period, the provider may make application to have 16 children in the home daycare.
- Already existing in ordinance are provisions for the number of square feet required per child both inside and outside. The current requirements are 80 square feet per child outside and 35 square feet per child inside. The outside play area must be fenced. Kitchens, bathrooms, hallways, and similar spaces do not count towards the minimum interior square footage requirement. The State requirements for indoor and outdoor areas are 35 and 40 square feet, respectively.

- **Mr. Meldrum** advised that Staff recommends that the Planning Commission forwards a positive recommendation to the City Council to adopt the proposed changes. 19:09:37

2.2 **APPLICANT ADDRESS:** **JoAnna Turner.** **Ms. Turner** advised that she has been a child care provider for 15 years. That she had nothing to add to her previous comments in prior meetings but added that she was in favor of the "step up" idea. **Commissioner Fink** wanted to know if her lot provided a sufficient amount of square feet per child as previously was stated and she said she has easily enough 19:11:18

2.3 **SPEAKING:**

a. **Dan Fazzini, Jr.** - 19:12:06 **Mr. Fazzini** commented that square foot requirements should be based on the size of the home and questioned if the square footage of the home on the application meets that requirement.

2.4 **DISCUSSION:** **Commissioner Barbieri** opened the meeting up for discussion from the Planning Commissioners and there being none, she opened the floor for a motion. **Commissioner Faurischou** said that the Commission has heard many of these issues before. The size of the home and yard are limitation factors in and of themselves. He had concern for the nature of the neighborhood, impact thereon and what a home occupation really involves. 19:14:21

2.5 **MOTION:** **Commissioner Faurischou** - I will make a motion to send a negative recommendation to the City Council that we limit the number of children allowed in day cares to 12 and not extend it to 16 as was requested.

SECOND: **Commissioner Jensen**

VOTE: All Commissioners present voted in favor. Motion passes unanimously.

Commissioner Jensen reminded those present that voting in favor of a negative recommendation means it is against the application. **Commissioner Barbieri** said that was correct and this action limits day cares to 12 children and if the applicant so chooses, it could go back to the City Council. **Mr. Meldrum** said that it will be going back to the City Council, however, there was no date set as yet and he would notify the applicant when he receives that date.

SUBDIVISION

3. Ivory Development - 1090 West 4800 South - 13-lot subdivision. (Michael Meldrum/Principal Planner) 19:16:15

3.1 **Mr. Meldrum** presented this application for a 13 lot subdivision. He showed a vicinity map of the affected area and advised that the property consists of 4.81 acres. The R-1-10 zoning will remain as that. He showed an aerial map which shows there are two homes presently on the parcel and they will remain on the plat. The plat shows a front yard setback of 25 feet. This is true for garages but the front yard setback for living space is 30 feet. 19:18:11 There are two existing homes that are on two of the parcels included with this subdivision application. The applicant intends to leave the homes and create new subdivision lots for them (Lots 112 and 113). Access to the two existing homes currently comes from 4800 South and both homes face south. The proposed street right-of-way is shown at the required 50' width. Lots in the R-1-10 zoning district are required to be 80 feet wide at the required setback line. All proposed lots appear to comply with these requirements. .

Staff has concerns regarding:

- Road alignments.
- The submitted preliminary plat shows an easement of 16.6 feet in width but does not indicate ownership or the purpose of the easement. Without that information it is not clear if the proposed subdivision plat is viable.
- Lot 112 will be a corner lot and must comply with the setback requirements for both the main structure and the accessory structures.
- The proposed subdivision plat also includes road dedication to the City of Taylorsville for property along 4800 South. The width of the dedication is approximately 41.5 feet. The dedication must be completed as required by the City Engineer.

The City Engineer has provided the following comments:

Sheet C-1 Preliminary Lot Layout: